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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P.(I) (COMM.) 41/2024

E-GOVERNANCE SOLUTIONS PVT. LTD Petitioner

Through: Mr. Abhimanyu Bhandari, Ms.
Roohe Hina Dua, Ms. Shreya
Arora, Advocates.

versus

CSC E-GOVERNANCE SERVICES
INDIA LTD. & ANR.

..... Respondents

Through: Mr. P.C. Sen, Sr. Advocate with
Ms. Malvika Kapila, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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12.02.2024

1. This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996, [‘the Act’], seeking pre-reference interim measures of protection, in anticipation of arbitration proceedings under a Memorandum of Understanding dated 06.04.2016 and addendum thereto dated 01.09.2016 [‘MoU’].

2. By order dated 30.01.2024, the respondents were granted time to file reply to the petition. A statement was recorded on behalf of the respondents to the effect that *status quo*, as of 30.01.2024, will be maintained with regard to termination of the MoU.

3. Although, no reply has been filed, upon instructions, Mr. P.C. Sen, learned Senior Counsel for the respondents, submits that the matter may be referred to arbitration in these proceedings itself and the statement



recorded on 30.01.2024 be continued, until the learned Arbitrator has had an opportunity to consider this petition as an application under Section 17 of the Arbitration and Conciliation Act, 1996 [“the Act”].

4. Having regard to the above, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- A. The disputes between the parties under the Memorandum of Understanding dated 06.04.2016 and addendum thereto dated 01.09.2016, will be adjudicated by arbitration of Hon’ble Mr. Justice Sanjay Kishan Kaul, former Judge of the Supreme Court [Tel: 9818000370].
- B. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act prior to entering upon the reference.
- C. Upon the suggestion of learned counsel for the parties, the Tribunal is requested to fix its remuneration at a preliminary hearing, in terms of *ONGC Ltd. v. Afcons Gunanusa JV* [2022 SCC OnLine SC 1122].
- D. This petition will be treated as an application under Section 17 of the Act before the learned Arbitrator. The respondents may file their reply to the Section 17 application before the learned Arbitrator, within one week from today.
- E. The parties may request the Tribunal for an early hearing of the application under Section 17 of the Act.
- F. The statement made by learned counsel for the respondents on 30.01.2024, will continue, subject to further orders to be passed by the Tribunal. Needless to say, the parties are free to request the



Tribunal to continue, modify, vacate or vary the above interim arrangements.

G. It is made clear that this Court has not entered into the merits of the matter, even on a *prima facie* basis.

5. The petition stands disposed of with these directions.

PRATEEK JALAN, J

FEBRUARY 12, 2024

'Bhupi' /