



2024:DHC:6753



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 189/2024

PAISALO DIGITAL LIMITED

.....Petitioner

Through: Mr. Apratim Animesh Takur
and Mr. Tasu Pratap, Advs.

versus

PURAN MURTI EDUCATIONAL SOCIETY
& ORS.

.....Respondent

Through:

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)**

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30.08.2024

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996¹, seeking reference of the dispute between the parties to arbitration.

2. Despite service no response has been filed by the respondents. I have heard the learned Counsel for the petitioner.

3. The petitioner and Respondent 1 entered into a Loan Agreement dated 28 September 2017 wherein petitioner extended and disbursed a loan of ₹ 75,00,000/- to the Respondent 1. Respondents 2 to 5 stood as guarantors to the aforesaid loan availed by Respondent 1 vide Guarantee Agreement dated 28 September 2017.

¹ "the 1996 Act", hereinafter



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4. Clause 20 of the Loan Agreement dated 28 September 2017 envisages resolution of disputes by arbitration and reads thus:

“20. Any conflict, difference, controversies, or disputes arising between the parties, if not resolved mutually, shall be submitted/referred to the arbitration of the Sole Arbitrator. The notices like Demand Notice, Loan Recall-cum-Demand Notice and/or telephonic conversations /mails shall be deemed to be sufficient proof for opportunity given to the borrower and/or Guarantor(s) for resolving the issues and efforts of Amicable Settlement made by the Company.

The Borrower and Guarantor(s) hereby agree and give their free consent to the Company i.e. SEIL to appoint/nominate any person/professional as Sole Arbitrator without any prior consent or reference to them. Such rights of appointing an arbitrator are not questionable by the Borrower and/or the Guarantor(s). The notice for Appointment of Arbitrator and the Statement of Claims can be forwarded by the Company i.e. SEIL on the same day to the Arbitrator and the Borrower as well as the Guarantor(s) so as to facilitate early disposal of Arbitration proceedings.

The parties to this agreement agree for the following procedure regarding Arbitration Proceedings:-

- a) The Statement of Claims will be forwarded by the Company i.e. SEIL along with all documents relied upon by the Company i.e. SEIL.
- b) The Borrower and Guarantor(s) shall file their reply along with all the documents relied upon within 15 days of receiving of Statement of Claim or such other period as may specified by the Arbitrator.
- c) The Company i.e. SEIL shall file rejoinder/ replication, if any, within 7 days or such other period as may be specified by the Arbitrator along with further documents, if required.
- d) Sole Arbitrator will frame issues i.e. points of controversies between the parties.
- e) Thereafter the Parties will file their Affidavit in Evidence in 7 Days along with further documents, if any.
- f) Thereafter the parties will file their written submissions/arguments in 10 days.

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HARI SHANKAR
Signing Date: 04.09.2024
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g) if any party files any Application then the above proceedings will be followed without prejudice to their rights of that Application.

h) Hearing will be held on weekly basis or as the Sole Arbitrator think fit and proper.

i) The Arbitration Case would be decided on documentary evidence and Affidavits of parties and no verbal submissions shall be taken on record.

j) The Sole Arbitrator may decide the other procedural aspects and may change the above schedule if he/she thinks proper.

Any notice/document pursuant hereto shall be deemed to be duly served if sent by Registered Post/ Speed Post at addresses as mentioned in this Agreement or to any changed address if such change has been notified by either party hereto and such notice shall be deemed to take effect on third working day following the date of posting thereof The parties have agreed that documents and correspondence may be served by fax or email and it shall be considered sufficient proof of delivery of documents.

The Parties have also agreed that in case of multiple loan transactions in which all or any of the Borrower and Guarantor(s) are same or belong to same group or family then the Company i.e. SEIL at its sole discretion, may initiate single Arbitration Proceedings for multiple loan transactions and multiple or single statement of Claims may be filed by the Company i.e. SEIL.

The Arbitration shall be conducted in accordance with the provisions of Arbitration and Conciliation Act, 1996. Rules thereunder and any amendments thereto and the language of the Arbitration shall be English. The decision/award of the Arbitrator shall be final/conclusive and binding on the parties. The parties have agreed that no reasons for the Award shall be stated by the Sole Arbitrator. The venue of Arbitration shall be at New Delhi or NCR.”

5. As disputes arose between the parties, the petitioner *vide* letter dated 7 September 2023 under section 21 of the 1996 Act, invoked clause 20 of the Loan agreement and sought reference of the disputes to arbitration. Petitioner also requested the respondents to give consent

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to the names of arbitrators proposed by it. Respondent did not reply to the said notice.

6. The petitioner has accordingly moved this court under section 11(6) of the 1996 Act for reference of the disputes to arbitration.

7. As there exists an arbitration clause between the parties and as the present petition has been filed within three years of the Section 21 notice issued by the petitioners to the respondent, following the judgment of the Supreme Court in *SBI General Insurance Co Ltd v. Krish Spinning*², this Court proceeds to appoint an Arbitrator to arbitrate on the disputes between the parties.

8. Accordingly, this court appoints Mr. Amit Anand, Advocate (Mob: 9810060840) as the arbitrator to arbitrate on the dispute between the parties.

9. The arbitration shall take place under the aegis of the DIAC and shall abide by its rules and regulations.

10. The arbitrator shall be entitled to charge fees as per the schedule of fees maintained by the DIAC.

11. The learned arbitrator is also requested to file requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on the reference.

² 2024 SCC OnLine SC 1754



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12. The petition stands allowed in the aforesaid terms.

C.HARI SHANKAR, J

AUGUST 30, 2024/aky

Click here to check corrigendum, if any

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