



2024:DHC:5384



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 259/2024****ACCELERATE PRODUCTX VENTURES PRIVATE
LIMITED**

.....Petitioner

Through: **Mr. Amit Kumar, Mr. Abhinav
and Mr. Manan Popli, Advs.**

versus

REEJH ESSENTIALS

.....Respondent

Through: **None****CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)**

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19.07.2024

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (1996 Act), for reference of the disputes between the petitioner and the respondent to arbitration.

2. Despite service of notice on the respondent by speed post as far back as in April 2024, there is no response. Nor has the respondent condescended to file reply to the petition.

3. Mr. Amit Kumar, learned Counsel for the petitioner submits that the respondent is deliberately absenting from these proceedings as he has been contesting Section 9 proceedings initiated by the petitioner before the Commercial Judge in the Patiala House Courts.

4. There is no appearance on behalf of the respondent when the

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matter is called out.

5. In the circumstances, I am not inclined to await any further for the respondent to appear.

6. I have heard Mr. Amit Kumar, learned Counsel for the petitioner.

7. The dispute arises out of a Franchise Agreement dated 22 March 2023, whereunder the respondent was appointed as a franchisee by the petitioner. Clause 23 of the Franchise Agreement deals with the dispute resolution and reads thus:

“23. DISPUTE RESOLUTION

23.1. The Parties shall use their best efforts to amicably resolve any dispute or difference, which may arise or may have arisen between the Parties with regard to any matter pertaining to or arising from or in connection to this Agreement including any question regarding its existence, validity, construction or termination.

23.2. If the Parties are unable to settle the dispute and/or difference referred to in Clause 22.1 either Party may submit the dispute to arbitration before Delhi International Arbitration Centre ("DIAC") to be decided by a sole Arbitrator appointed by DIAC. The venue and seat for the arbitration proceedings shall be at New Delhi, India and the proceedings shall be conducted in the English Language. The finding of the sole arbitrator shall be binding on the Parties and the succeeding Party shall be entitled to costs of the arbitration including but not limited to legal costs.”

8. It is clear that no specific pre-arbitral protocol is required to be followed by Clause 23 Franchise Agreement before a notice under Section 21 invoking arbitration, issued by one party, to the other.

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9. In the present case, the Section 21 notice was issued by the petitioner on 15 December 2023 and despatched by speed post to the respondent. The speed post endorsement states that the respondent had left the address without instructions. Mr. Amit Kumar points out that the Section 9 notice was received by the respondent at the very same address.

10. As such, *prima facie* it appears that the respondent is avoiding reference of the disputes to the arbitration.

11. In the circumstances, the Court has to step in and exercise jurisdiction under Section 11(6) of the Arbitration and Conciliation Act, 1996.

12. In accordance with the Clause 23.2 of the Franchisee Agreement, therefore, the disputes between the parties stand referred to the Delhi International Arbitration Centre (DIAC). The DIAC would appoint a suitable Arbitrator to arbitrate on the disputes. The arbitral proceedings shall be conducted in accordance with the rules and regulations of the DIAC. The Arbitrator shall be entitled to fees as per the schedule of fees maintained by the DIAC. The Arbitrator shall also file the requisite disclosure under Section 12 of the 1996 Act within a week of entering the arbitration.

13. This Court has not expressed any opinion on the merits of the matter.

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14. The petition stands disposed of in the above terms.

C.HARI SHANKAR, J

JULY 19, 2024/ns

Click here to check corrigendum, if any

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