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

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ARB.P. 323/2024

**M/S GROWIA FACILITIES SERVICES PRIVATE LIMITED**

.....Petitioner

Through: Mr. Tarun Gumber and Mr. Rohit  
Khankriyal, Advs.

versus

**CENTRAL COUNCIL FOR RESEARCH IN YOGA AND  
NATUROPATHY**

.....Respondent

Through: Mr. Sunil Narula and Ms. Deepika  
Kumari, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

**31.07.2024**

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator to adjudicate the disputes between the parties.
2. The petitioner and respondent entered into an Agreement dated 29.04.2022 w.e.f 01.05.2022 for supplying of manpower to the respondent through GeM portal i.e. Govt. of India e marking portal.
3. The Arbitration Clause is Clause 16.2 of the General Terms and Conditions which reads as under:-

*“16.2. Arbitration:*

*In the event of any conflict / dispute arising out of or in connection with the Contract placed through GeM, which has not been resolved in accordance with the procedure laid down in Clause 16.1 above, the aggrieved Party may invoke Arbitration by sending a written notice to the other Party. The procedure for*



*appointment of the Arbitral Tribunal shall be as follows.*

*i. In cases where the total value of the Contract is less than INR 1, 00, 00,000/- (Indian Rupees One Crore only) the same shall be referred to a sole arbitrator mutually appointed by both the Parties.*

*ii. Where the total value of the Contract exceeds INR 1,00,00,000/- (Indian Rupees One Crore only), the arbitration shall be conducted by a quorum of three arbitrators. Each party shall be entitled to appoint an arbitrator and the two party-appointed arbitrators shall within 30 (thirty) days from their nomination, appoint a third arbitrator i.e., the Presiding Arbitrator.*

*iii. In case of failure to appoint the Presiding Arbitrator within a period of 30 (thirty) days from the date of nomination of the two arbitrators by the respective parties, the aggrieved party shall approach the High Court (under whose jurisdiction the principal place of business of the Buyer department/ organization is located) to appoint the Presiding Arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 (as amended up to date).*

*iv. The arbitration shall be conducted in the English language. Arbitration proceedings can also be conducted online, as per the discretion of the Arbitral Tribunal.*

*v. The cost of the Arbitration shall be equally borne by both the Parties.*

*vi. The award of the arbitrator shall be final and binding on the Parties to the Contract. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996, as amended up to date. The seat of arbitration shall be at the place where the principal place of business of the Buyer department / organization is located.*

*vii. The Contract shall be interpreted and governed in all respects in accordance with the laws of India. All disputes in*



*connection with or arising out of the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the Buyer department / organization is located.”*

4. The petitioner has been raising invoices against the respondent and as per the petitioner's Ledger account an amount of Rs. 31,15,773/- along with the security deposit/FDR of Rs. 36,77,974/- is due and payable.
5. Since the amounts were not paid, the petitioner issued Legal Notice dated 20.11.2023. Hence the present petition.
6. This Court *vide* Order dated 05.03.2024 issued notice to the respondent. On 23.04.2024, the matter was rolled over to enable the parties to arrive at an amicable settlement but the same has not been achieved.
7. As there is no reply filed by the respondent, Mr. Narula, learned counsel for the respondent admits the arbitration clause but raised an objection that the Notice dated 20.11.2023 is not a notice under Section 21 of the Arbitration and Conciliation Act, 1996 which is a pre requisite before filing the present petition seeking appointment of an Arbitrator.
8. Mr. Gumber, learned counsel for the petitioner has drawn my attention to Notice dated 08.12.2023, wherein the petitioner has invoked the arbitration clause being Clause 16.2 of the General terms and Conditions and requested the respondent for appointment of an arbitrator. The clause 4 of the said Notice reads as under:-

*“4. Hence, By way of the present notice, hereby invokes the arbitration clause for settlement of the dispute and accordingly. It is stated that in furtherance to the dispute | hereby suggesting to appoint arbitrator from the panel of Nani Palki Vala Arbitration Center or Panel Arbitrator (Retired Judge) form the*



*Arbitration Center within 30 Days from the receipt of present letter for appointment 'of arbitrator, failing which I shall be free to take appropriate legal course of action against you as per law at your own risk, cost and consequence of your, which you may please note."*

9. I have already taken a view in "***The Prasar Bharati vs. Visual Technologies India Pvt. Ltd.***", in ARB.P. 558/2023 vide Order dated 18.03.2024 and more particularly para 9 reads as under:-

*"9. There is no fixed format of notice invoking arbitration. The requirement in law is that the party invoking arbitration must highlight the disputes between the parties and make a request that in case the disputes are not resolved, arbitration proceedings shall be commenced. The intention to invoke the redressal of disputes through the arbitral process must clearly spelt out in the notice. Hence in my view, the notice under Section 21 of 1996 Act must clearly state as follows:-*

*a. The dispute between the parties.*

*b. The demand to resolve the disputes as per the envisaged arbitration clause.*

*c. In case, the disputes are not resolved the intention to resort to the arbitral process.*

*d. The notice must be sent to the respondent."*

10. In present case, Notice dated 08.12.2023 clearly invokes the arbitration clause and suggests to appoint an Arbitrator from the Arbitration Center within 30 days failing which the petitioner shall take appropriate action. Hence, I am satisfied that the said Notice is a notice under Section 21 of the Arbitration and Conciliation Act, 1996 seeking referral of disputes to the Arbitration.



11. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

- i) Mr. Rahul Krishna, Advocate (Mob. No.9810225882) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

**JASMEET SINGH, J**

**JULY 31, 2024/NG**