



2024:DHC:4020



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 15th May, 2024**

+ **ARB.P. 406/2024**

PATHKIND DIAGNOSTICS PVT. LTD. Petitioner
Through: Mr. Anand Singh & Mr. Darsh
Bansal, Advocates.

versus

MAHARAJA AGRASEN MULTISPECIALTY HOSPITAL & ANR.
..... Respondents
Through: None.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the "Act, 1996"*) has been filed on behalf of the petitioner seeking appointment of a sole Arbitrator for adjudication of the disputes having arisen between the parties.
2. It is submitted in the petitioner has various laboratories and collection centres for tests, ranging from simplest screening to advance test.
3. The respondent No. 1 through its Managing Director/Authorised Signatory, Dr. Nagendra Yadav, who is the respondent No. 2 entered into a Memorandum of Understanding (*hereinafter referred to as "MoU"*) in July, 2020 for conducting COVID-19 and other tests to be done by the petitioner.
4. The petitioner started carrying out the tests, as per the requirements, without any complaint and the payments used to be made to it from time to



time on first-in, first-out basis and the said payments used to be recorded in running account maintained by the petitioner in its ordinary course of business.

5. It is submitted that on reconciliation of accounts in May, 2022 vis-a-vis., testing done by the petitioner and invoices/bill of supply raised in that regard and the payments received from the respondent, the petitioner found that a sum of Rs. 1,96,100/- is outstanding against the respondents after adjusting all the amount received by the petitioner.

6. It is further submitted that despite repeated requests of the petitioner, the respondents had not paid any heed.

7. Clause 14 of the MoU provides for the disputes to be resolved through arbitration.

8. The petitioner issued the Notice dated 27.05.2022 to the respondents calling upon for resolving the dispute by way of an amicable settlement and also demanding Rs. 1,96,100/- along with interest @ 18%. However, the respondents had failed to reply to the said Notice dated 27.05.2022.

9. Another Notice dated 20.08.2022, in terms of Clause 14 of the MoU, invoking arbitration was served upon the respondents by the petitioner proposing the name of Mr. Deepak Sahni, Advocate as the sole Arbitrator. However, the respondents again failed to reply to the Notice of Invocation of Arbitration dated 20.08.2022.

10. The petitioner, left with no option, has filed the present petition seeking appointment of a sole Arbitrator.

11. Despite service effected upon the respondents, none has appeared on their behalf.

12. **Submissions heard.**



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13. In view of the submissions made as well as Clause 14 of the MoU which provides for arbitration and the petitioner has raised the arbitrable disputes and without prejudice to the rights and contentions of the parties, the present petition is allowed.

14. The Coordinator, Delhi International Arbitration Centre is requested to appoint an Arbitrator in accordance with the provisions of the Act, 1996 for adjudication of the disputes between the parties.

15. The parties are at liberty to raise their respective objections before the Arbitrator.

16. The fees of the Arbitrator would be fixed in accordance with the Delhi International Arbitration Centre Rules.

17. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.

18. The Arbitration shall be conducted under the aegis of Delhi International Arbitration Centre within the High Court precinct.

19. Accordingly, the present petition is disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 15, 2024

S.Sharma