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

+ O.M.P. (T) (COMM.) 40/2023, I.A. 10123/2023

MILLENNIUM EDUCATION MANAGEMENT PRIVATE
LIMITED Petitioner

Through: Mr. Dhruv Verma, Mr. Rohit
Kathuria, Mr. Shekhar Nehra, Advs.

versus

RAJINDERA EDUCATIONAL SOCIETY Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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23.02.2024

1. The present petition has been filed under Sections 14(2) & 15(2) of the Arbitration and Conciliation Act for termination of the mandate of the Arbitral Tribunal comprising of a Sole Arbitrator and appointment of a substituted Arbitrator.
2. The facts in brief are that in ARB.P. 508/2022 titled as “*Millennium Education Management Private Limited vs. Rajendera Educational Society*” this court vide order dated 08.12.2022 appointed an arbitrator.
3. It has further been submitted that in the petition certain averments have been made which are not in good taste and are not being reproduced herein.
4. Learned counsel submits that the pleadings are complete. It has been submitted that in view of the averments made, learned counsel for the petitioner submits that the statement of claim and statement of defence has been filed and the petitioner/claimant is yet to file the rejoinder.
5. Learned counsel submits that in view of the averments made in the



petition, the mandate of the present Arbitrator may be terminated and a fresh arbitrator may be appointed.

6. Notice was issued to the respondent and learned counsel for the respondent had appeared on 31.07.2023, 21.08.2023, 22.09.2023 and 12.01.2024. However, today respondents have chosen not to appear.
7. Learned counsel for the petitioner submits that the learned Arbitrator is continuing to charge an unreasonably and unjustified high amount toward the arbitration fees & secretarial charges. In the pleadings, several objections to the proceedings that have been initiated and have been continuing before the learned Arbitrator have been raised. The primary objection raised on behalf of the petitioner was the fees being charged by the learned Arbitrator and the same is stated to be above and beyond the fourth schedule of the Arbitration and Conciliation Act, 1996.
8. Unfortunately, on the similar allegations in O.M.P.(T)(Comm.) 126/2022 titled ***Hi Tech Sweet Water Technologies Pvt Ltd vs. Indian Railway Catering and Tourism Corporation*** the coordinate bench of this court vide order dated 21.03.2023 terminated the mandate of the present arbitrator. Regrettably, this court has no other option but to terminate the mandate. Thus the mandate stands terminated.
9. Justice A.K. Pathak, Former Judge, of Delhi High Court is appointed as the Arbitrator under the aegis of the India International Arbitration Centre (IIAC).
10. Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following directions:



- i) The arbitration will be held under the aegis of the India International Arbitration Centre, Plot No.6, Institutional Area, Vasant Kunj, New Delhi-110070 (*hereinafter, referred to as the 'IIAC'*). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act or as the parties may agree.
- ii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iii) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned arbitrator within two weeks from today.

11. In view of the above, the present petition stands disposed of.

FEBRUARY 23, 2024/AR

DINESH KUMAR SHARMA, J