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

+ ARB.P. 515/2024

AGILUS DIAGNOSTICS LIMITEDPetitioner

Through: Mr. Ajay Uppal, Advocate.

versus

DIGITAL HEALTHCARE PVT LTD & ORS.Respondents

Through: Mr. Shivansh Srivastava,
Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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11.07.2024

1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner has approached this Court for appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 20.08.2018 [“the Agreement”].
2. The Agreement contains an arbitration clause [Clause C(5)], which provides for resolution of disputes by a sole arbitrator to be appointed by the petitioner-company, described therein as “SRL”. Delhi has been designated as the venue of arbitration and the Courts in Delhi have been vested with exclusive jurisdiction under the Agreement.
3. Disputes having arisen between the parties, the petitioner invoked arbitration by a communication dated 15.05.2023, which failed to illicit a response. Thereafter, the petitioner unilaterally appointed an arbitrator, who, on an application by the respondent, terminated his mandate by order



dated 22.12.2023.

4. As the parties were unable to achieve consensus as to appointment of an independent arbitrator, the petitioner has approached this Court under Section 11 of the Act.

5. Mr. Shivansh Srivastava, learned counsel for the respondent, appears pursuant to notice issued on 25.04.2024 and submits that the existence of the arbitration clause in the Agreement is undisputed. He, therefore, consents to appointment of an arbitrator, leaving all issues open for adjudication by the learned arbitrator. However, having regard to the quantum of the petitioner's claims, learned counsel for the parties submit that the matter be referred to mediation so that an attempt can be made for settlement, if possible.

6. Having regard to the above submission and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- a. The parties are referred to mediation under the aegis of Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503. They will appear before the learned Mediator on 18.07.2024.
- b. In the event, the mediation proceedings are unsuccessful, the disputes between the parties will be adjudicated by arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"]. DIAC is requested to nominate an arbitrator from its panel.
- c. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.



- d. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
 - e. DIAC and the learned arbitrator are requested to defer the arbitral proceedings for a period of one month from today, to enable the parties to resolve their disputes through mediation. In the event, the mediation is unsuccessful, either party may approach DIAC for commencement of arbitral proceedings, after expiry of the one-month period.
7. All rights and contentions of the parties are left open for adjudication by the learned arbitrator.

PRATEEK JALAN, J

JULY 11, 2024

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