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

+ **ARB.P. 879/2024**

AAKASH EDUCATIONAL SERVICES LIMITEDPetitioner

Through: Ms. Manasi Chatpalliwar,
Advocate.

versus

SUDHANSHU KUMARRespondent

Through: Mr. Aadhar Saha, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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27.08.2024

1. The petitioner seeks appointment of an arbitrator to adjudicate the disputes between the parties under an agreement dated 12.03.2019, entitled "*Employment Terms and Conditions for Faculty Members*" ["ETC"].

2. The ETC contains an arbitration clause [Clause 61(B)] which provides for resolution of disputes by a Sole Arbitrator to be appointed by the Managing Director of the petitioner. The arbitration proceedings are to be conducted at New Delhi/Delhi. Courts at New Delhi have also been given exclusive jurisdiction of the matters.

3. Disputes having arisen between the parties, the petitioner invoked arbitration by a communication dated 27.03.2024. As the said notice failed to elicit a response, the petitioner has approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"].

4. Mr. Aadhar Saha, learned counsel, enters appears on behalf of the



respondent pursuant to notice issued on 01.07.2024. He submits that the petitioner's claims are based upon Clause 7(A) and Clause 7(B) of the ETC which have been held to be in violation of the Indian Contract Act, 1872, by the judgment of this Court in *Vivek Rai v. Aakash Institute*, [2015 SCC OnLine Del 7814]. He, however, submits that the existence of the agreement is not disputed.

5. Learned counsel for the petitioner disputes the contention with regard to validity of the clauses of the contract.

6. It is not necessary to adjudicate these aspects finally, as the judgment of the Supreme Court in *SBI General Insurance Co. Ltd. v. Krish Spinning* [2024 SCC OnLine SC 1754], holds that, at the stage of Section 11 proceedings, the Court is only required to examine, *prima-facie*, whether an arbitration agreement exists between the parties. All other disputes are to be left to the Arbitral Tribunal.

7. The existence of the arbitration clause, in the present case, is undisputed. The petition is, therefore, liable to succeed.

8. In view of the above, the petition is disposed of by referring the disputes between the petitioner and the respondents to arbitration. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 ["DIAC"], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator. DIAC is requested to nominate an Arbitrator from its panel.

9. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

10. It is made clear that all rights and contentions of the parties are left



open for adjudication by the learned Arbitrator.

11. The petition is disposed of in the aforesaid terms.

PRATEEK JALAN, J

AUGUST 27, 2024

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