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

+ **ARB. A. (COMM.) 36/2024 & I.As. 32451-32452/2024**

AIRPORTS AUTHORITY OF INDIA

.....Appellant

Through: Mr. Digvijay Rai, Mr. Archit Mishra, Advocates with Mr. Mukesh Kumar, DGC, Mr. Vivek Gupta, AGM(Law), Mr. Gagan Kachor, Sr. Manager (Law).

versus

SPV CONSORTIUM AND ORS

.....Respondents

Through: Mr. Umakant Mishra, Ms. Prabhati M. Nayak, Mr. Niranjana Sahu, Ms. Apoorva Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.07.2024

1. The present appeal, under Section 37 of the Arbitration and Conciliation Act, 1996 ["the Act"], is directed against an interim order dated 13.06.2024 passed by a three-member Arbitral Tribunal, which is in *seisin* of disputes between the parties under five Concession Agreements.
2. The agreements were for provision of Ground Handling Services ["GHS"] at five airports. All five agreements have been terminated by the appellant, which has led to institution of the arbitral proceedings. The dates of each of the agreements and termination thereof are stated in the table below:

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S. No.	Airport	Date of Agreement	Date of Termination
1.	Vadodara	19.05.2022	15.06.2023
2.	Bhopal	28.06.2022	14.06.2023
3.	Vijayawada	08.07.2022	27.06.2023
4.	Dehradun	12.07.2022	08/09.06.2023
5.	Ranchi	14.07.2022	06.06.2023

3. The appellant's grievance is against the interim order, granted under Section 17 of the Act, which directs as follows:

"5. Till this application is heard on 11.07.2024, the Respondent is directed not to grant concessions for providing Ground Handling Services (GHS) at Bhopal, Ranchi, Dehradun, Vadodara and Vijayawada airports in favour of any third party pursuant to bids which have been called or which may be called by the Respondent."

4. Mr. Digvijay Rai, learned counsel for the appellant, submits that the aforesaid interim order was passed on the very first date of the arbitral proceedings, when the copy of the application, under Section 17 of the Act filed by the respondent, had not even been served upon the appellant. It is also Mr. Rai's contention that, during the course of the hearing held on 13.06.2024, no arguments were advanced by either party on the application under Section 17 of the Act. He submits that the injunction granted by the Arbitral Tribunal has the consequence of impeding the provision of GHS at five airports. Although the appellant has not yet called for bids in respect of GHS at Ranchi, Vadodara, Vijayawada and Dehradun airports, it has, in fact, called for bids in respect of Bhopal airport and the last date for submission of bids is 08.07.2024. Mr. Rai relies upon a judgment of the Bombay High Court dated 13.10.2021 in



Godrej Properties Ltd. v. Goldbricks Infrastructure Pvt. Ltd. [CARBPL 23500/2021] to submit that an arbitral tribunal is not empowered to grant *ex-parte ad interim* orders.

5. The aforesaid submissions of Mr. Rai are disputed by Mr. Umakant Mishra, learned counsel for the respondent.

6. Having heard learned counsel for the parties, and having regard to the fact that the application under Section 17 of the Act, is due to be heard by the Arbitral Tribunal in a contested hearing on 11.07.2024, I am of the view that it would be appropriate for the parties to make their respective arguments before the learned Arbitral Tribunal, including as to whether the *ad interim* order is liable to be continued in the same terms, modified or vacated. The appellant has already filed its reply to the application. Mr. Mishra assures the Court that the respondent will be in a position to address the arguments on the application before the learned Arbitral Tribunal on the date fixed.

7. The appeal is, therefore, disposed of, reserving liberty to the parties to address their respective arguments on the application before the learned Tribunal on the date fixed, i.e., 11.07.2024. In the event the application is not disposed of, the appellant's prayer for vacation of the interim order may also be considered by the Tribunal on that date, particularly because the bids in respect of Bhopal Airport would have closed by then. In the event either party is aggrieved by the order of the Tribunal, they will be at liberty to take remedies against that order. As far as the appellant is concerned, it will be at liberty to agitate the grounds raised in this appeal, as the merits of the appellant's case have not been considered by this Court.



8. All pending applications also stand disposed of with these directions.

PRATEEK JALAN, J

JULY 5, 2024
SS/