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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1126/2023

TWIGZ TECHNOLOGIES PRIVATE LIMITED Petitioner

Through: Mr. Vivek Kumar with Mr. Aditya
Parolia and Mr. Akshau Srivastava,
Advocates *via* video-conferencing.

versus

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

..... Respondent

Through: Mr. Kunal Kher, Advocate *via*
video-conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

15.05.2024

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By way of the present petition under section 11(5) of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Agreement dated 01.10.2019 ('Agreement').

2. Notice on this petition was issued on 30.10.2023; consequent upon which reply dated 26.02.2024 has been filed by the respondent.
3. Mr. Vivek Kumar, learned counsel for the petitioner has drawn the attention of this court to clause 9 of the Agreement which comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the A&C Act; with the 'place' of arbitration being at New Delhi.
4. For completeness, it may be recorded that a separate territorial jurisdiction provision is also contained in clause 10(h) of the



Agreement, which subjects the contract between the parties to the jurisdiction of competent courts at New Delhi.

5. As per the record, the petitioner invoked arbitration *vide* Notice dated 28.12.2022; and the respondent reverted on the said notice *vide* reply dated 27.01.2023.
6. Though in reply dated 26.02.2024 filed to the present petition, the respondent has opposed the prayer made, a close reading of the reply shows that the objections so raised relate to the merits of the disputes between the parties. In fact, as pointed-out by Mr. Kumar, *vide* notice dated 27.01.2023 the respondent had itself invoked the arbitration clause, and had even proposed the name of a sole arbitrator to adjudicate upon the disputes between the parties.
7. Upon a conspectus of the averments contained in the petition, the stand taken by the respondent, and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 28.12.2022, do not appear *ex-facie* to be non-arbitrable.
8. In view of the above, at this stage, learned counsel for the parties jointly request that this court may appoint an arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC'), keeping all their respective factual and legal contentions open.



9. Accordingly, the present petition is allowed and **Hon'ble Mr. Justice V. K. Jain, former Judge of the Delhi High Court (Cellphone No.: +91 9650116555)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.
10. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
11. The learned Arbitrator shall then proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.
12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
13. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
14. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MAY 15, 2024

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