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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1287/2023

AAKASH EDUCATIONAL SERVICES LTD. Petitioner

Through: Mr. Pranav Proothi, Ms. Mansi
Chatpalliwar and Mr. Aditya
Singh, Advocates.

versus

MR. TONY JOSE

..... Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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12.01.2024

1. By way of the present petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.

2. Learned counsel for the petitioner submits that the respondent was appointed as Assistant Lecturer, Grade-M8 on 17.07.2019. It is submitted that the Service Rules Manual for Employees, executed between the petitioner and the respondent contains an arbitration clause i.e., Clause 61 (B), which provides that all disputes, with respect to the said manual, shall be referred to arbitration as per provisions of the Act, and further provides that the place of arbitration would be at Delhi.

3. Disputes having arisen between the parties, the petitioner invoked arbitration vide legal notice dated 29.08.2022, to which no response has

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been received.

4. Learned counsel enters appearance on behalf of the respondent pursuant to notice issued on 06.12.2023. He does not dispute the existence of the agreement or the arbitration clause, but submits that the respondent, in fact, complied with the terms of the agreement. He also requests a reference to mediation so that any remaining disputes can be resolved amongst the parties.

5. As far as the respondent's contentions on merits are concerned, those would be a matter for adjudication by the learned Arbitrator. However, learned counsel for the petitioner does not object to a reference to mediation.

6. Having regard to the above, the petition is disposed of with the consent of learned counsel for the parties 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 22.01.2024.
- 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 is requested to defer the arbitration proceedings until 01.03.2024, so that the parties can make an attempt to resolve the disputes in mediation. DIAC may proceed with appointment of an arbitrator upon the request of either party after the said date.

7. The petition is disposed of with the aforesaid directions.

PRATEEK JALAN, J

JANUARY 12, 2024
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