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

+ **ARB.P. 1316/2023**

M/S ONCQUEST LABORATORIES LTD Petitioner

Through: Mr. Sonal Anand, Advocate with
Mr. Aayush Sai and Ms. Surbhi
Singh, Advocates.

versus

**VELMED HOSPITALS (UNIT OF BHARAT HEART AND
SUPER SPECILITY HOSPITALS)** Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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15.03.2024

1. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ["the Act"], the petitioner seeks appointment of an Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.

2. Mr. Sonal Anand, learned counsel for the petitioner, submits that the parties had entered into an Engagement/Proposal letter dated 22.10.2021 ["the Agreement"]. It is submitted that the said proposal contains an arbitration clause [Clause 5] which provides that all disputes, with respect to the Agreement, 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

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arbitration *vide* legal notice dated 07.09.2023, to which no response has been received till date.

4. Pursuant to notice issued on 13.12.2023, learned counsel for the petitioner has filed an affidavit of service dated 12.01.2024, which shows that service was effected upon the respondent by speed post on 08.01.2024. The tracking report of the speed post service has also been attached to the affidavit of service. As the respondent has been served and sufficient time has lapsed for the respondent to have entered appearance, it is not necessary to await the appearance of the respondent further.

5. Although the Agreement does not appear to bear the signatures of the petitioner, it does bear the seal and stamp of the respondent. As the petitioner itself is asserting the existence of the Agreement, I am of the view that the petitioner has made out a *prima facie* case with regard to the existence of the arbitration agreement and invocation thereof. It may be noted that at this stage, the Court is not called upon to render a conclusive finding, even as to the existence of the arbitration agreement. The question of arbitrability is left open for adjudication by the learned Arbitrator.

6. The petition is therefore succeeds and the disputes under the Agreement dated 22.10.2021 are referred to arbitration under the aegis of Delhi International Arbitration Centre [“DIAC”] and will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

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

8. As the respondent has not entered appearance in these proceedings,



it is made clear that the respondent is to be served afresh, in accordance with DIAC Rules, in the arbitration proceedings.

9. Needless to say, all rights and contentions of the parties, including arbitrability, maintainability of the claims and on merits, are left open for adjudication by the learned Arbitrator.

10. The petition stands disposed of in these terms.

PRATEEK JALAN, J

MARCH 15, 2024
SS/pv/