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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1296/2024

TELECOMMUNICATIONS CONSULTANTS

INDIA LTD

.....Petitioner

Through: Mr. Nikhilesh Krishnan, Advocate.

versus

JAMIA MILLIA ISLAMIA

.....Respondent

Through: Mr. Pritish Sabharwal, SC with
Mr. Sharad Pandey, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.08.2024

1. Issue notice. Mr. Pritish Sabharwal, learned counsel, accepts notice on behalf of the respondent.
2. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"], the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under an agreement for a construction project on the campus of the respondent–University. The agreement was concluded by way of an expression of interest dated 07.01.2020 ["the EOI"] and a letter of acceptance of tender dated 01.06.2021.
3. The petitioner relies upon an arbitration clause (Clause 16) contained in the EOI. The clause is reproduced below:

"16. ARBITRATION:

Any and all disputes arising from this Agreement or a breach thereof, shall be first informed settled amicably through mutual discussion within 30 days from notice of dispute by either of the party.



In the event of failure to resolve the disputes amicably within 30 days from the date of notification in writing of the existence of the dispute /difference, such unresolved dispute/ difference shall be settled through Arbitration.

Any dispute between the Parties arising out or in connection with this contract or in respect of any defined legal relationship associated therewith or derived there from, the Parties agree to submit that dispute to arbitration under the Arbitration and Conciliation (Amendment) Act, 2015 to be decided by a sole arbitrator. The authority to appoint the arbitrator(s) shall be the International Centre for Alternate Dispute Resolution. The International Centre for Alternate Dispute Resolution will provide administrative services in accordance with the Arbitration and Conciliation (Amendment) Act, 2015 or as amended from time to time, and the parties shall consent to the same.

(a) the arbitration proceedings shall be held at Jamia Millia Islamia, India and language used in this proceedings shall be English.

(b) the decision of Arbitrator appointed to deal with such matters shall be accepted by the parties as final and binding on parties.

(c) the decision to continue performance of their respective remaining obligation under this contract or to rescind the contract shall be decided mutually, despite the continuation of arbitration proceedings.

(d) the parties shall use their best endeavors to procure that the decision of the arbitrator is given within a period of six months or as early as is possible after it has been demanded.

(e) the courts in Jamia Millia Islamia, India shall have exclusive jurisdiction in relation to this contract including this clause.

(f) all fees pertaining to arbitration proceedings shall be borne by the parties equally.

(g) all other costs incurred by the parties shall be borne by the respective parties.”

4. It appears that disputes arose between the parties, and the matter was also carried to this Court by way of a Writ petition [W.P.(C) 12734/2021], which was disposed of as withdrawn by order dated 22.11.2023. The petitioner has thereafter invoked arbitration by a notice dated 26.03.2024, addressed to the International Centre for Alternate Dispute Resolution and copied to the respondent–University. The said



notice failed to elicit any response, and, thus, the petitioner approached this Court under Section 11 of the Act.

5. Mr. Sabharwal submits that the existence of the arbitration clause is undisputed, and the Court may therefore appoint an arbitrator to adjudicate the disputes, however, leaving open all contentions on maintainability and merits, including on the question of limitation.

6. In view of the above, and with the consent of learned counsel for the parties, the disputes are referred to arbitration of Ms. Mani Gupta, Advocate [Tel:8800777922]. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

7. The arbitration will be held under the aegis of Delhi International Arbitration Centre [“DIAC”], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.

8. All rights and contentions on maintainability and merits, including on the question of limitation, are left open for adjudication by the learned Arbitrator.

9. The petition stands disposed of in these terms.

PRATEEK JALAN, J

AUGUST 23, 2024

“Bhupi”/