



2024:DHC:10031



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

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Date of Decision: 23.12.2024+ **ARB.P. 1893/2024**

QA EDUCATION SOLUTIONS PRIVATE LIMITEDPetitioner

Through: Mr. Praneet Pranav, Mr. V.C. Shukla
and Ms. Shreya Sinha, Advs.

versus

INDIRA GANDHI COMPUTER SAKSHARTA MISSION & ORS.

.....Respondents

Through: Mr. Sunil Dalal, Sr. Adv. along with
Mr. Rakesh Gaur, Mr. Nikhil
Beniwal, Mr. Navish Bhati, Mr. Rajiv
Singh, Mr. Sandeep Sharma, Ms.
Shipra Bali, Mr. Akash Gupta and
Ms. Riya Rana, Advs.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the A&C Act') seeks appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen under a "Collaboration Agreement" dated 15.05.2024 entered between the petitioner and the respondent no.1.
3. The petitioner submits that before the signing of the Collaboration Agreement the respondents represented to the petitioner that they had



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entered into Concession Agreements with the Government of Uttar Pradesh through the Department of Vocational Education, Skill Development, Industrial Training Institutes, and Polytechnic Department. These agreements allegedly granted the respondents operational rights over three Industrial Training Institutes (ITIs) at Kanth-Moradabad, Khair-Aligarh, and Baldev-Mathura and five Polytechnic Institutes at Sandila-Hardoi, Gopamau-Hardoi, Bilsa-Baduan, Fareedpur-Bareilly, and Sikandrara-Hathras.

4. It is stated that based on these representations, the petitioner entered into the Collaboration Agreement with the respondent no.1. Under the collaboration agreement the respondent no. 1 and the petitioner agreed to collaborate to:

“1. develop and implement educational programs aimed at enhancing vocational training and computer literacy in following institution:

- i. ITI's at: Kanth-Moradabad, Khair-Aligarh, Baldev-Mathura.*
- ii. Polytechnics at: Sandila-Hardoi, Gopamau Hardoi, Bilsa-Baduan, Fareedpur-Bareilly and Sikandrara-Hathras.*

2. Training and curriculum development: Both the Parties shall work together to design curriculum, training materials, and assessment tools tailored to the needs of the Institutions and aligned with industry standards and the ITI Project.

3. Capacity Building: The Petitioner shall provide training and capacity building support to faculty and staff of the Institutions to ensure the effective delivery of the educational programs.

4. Infrastructure Development: The Petitioner may explore opportunities for infrastructure development and improvement in the Institutions to enhance the learning environment and facilities available to students.

5. Quality Assurance: The Petitioner shall assist IGCSM in implementing quality assurance mechanisms to monitor and evaluate the effectiveness of educational programs and services.”



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5. The petitioner submits that Clause 2 of the agreement vested all administrative rights pertaining to the respective ITIs and Polytechnics with the petitioner. Despite this, the respondents attempted to undermine this control by directing that the petitioner's employees shall operate under the respondent no. 1's identity.
6. It is further submitted that under Clause 3, the petitioner was required to manage the institutions' daily operations. However, the respondents' interference, including control over essential credentials and communications, obstructed the petitioner's ability to perform these responsibilities effectively.
7. Further Under Clause 5, the petitioner agreed to pay a monthly guarantee (Rs. 4,50,000 per ITI and Rs. 8,00,000 per Polytechnic) and provide a two-month security deposit. In compliance with the aforesaid, the petitioner disbursed a total amount of Rs. 58,020,930, inclusive of Rs. 3,64,000 deducted as TDS. Despite meeting all financial obligations, the respondents allegedly failed to honour their commitments, misappropriated funds, and retained control over assets worth Rs. 70,20,930, which were to be transferred to the petitioner.
8. It is further the case of the petitioner that Clause 15 warranted that the parties had obtained necessary regulatory approvals. However, it later emerged that the respondents were restricted under Clause 111A of the Concession Agreement from subcontracting teaching activities. As such, the respondent/s is stated to have made a material misrepresentation to the petitioner on this score, and thereby also acting in violation of Clause 15 of the Collaboration Agreement.



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9. The petitioner submits that despite repeated requests, the respondents only shared a template of the Concession Agreement and one signed agreement for ITI Khair-Aligarh. The remaining agreements, amendments, or relevant approvals were not provided.

10. The Collaboration Agreement contains an arbitration clause as under:-

“18. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION

This Agreement shall be governed by the laws of India, without regard to conflict of law principles, and the Parties agree that the courts at Ahmedabad, Gujarat, India shall have exclusive jurisdiction in respect of any disputes or claims associated with this Agreement. Notwithstanding the foregoing, all disputes, differences between the Parties shall be resolved in accordance with the Arbitration and Conciliation Act, 1996 (including any statutory modification (s) or re-enactment thereof) and shall be referred to a sole arbitrator nominated with the mutual consent of the Parties. The award given by such an arbitrator shall be final and binding on the Parties to the Agreement. The arbitration shall be in English, and the seat, venue. And place of arbitration shall be New Delhi, India.”

11. Disputes having arisen between the parties, on 17.09.2024, the petitioner issued a notice invoking arbitration. However, vide their reply dated 23.09.2024, the respondents failed to agree on the appointment of a Sole Arbitrator.

12. The petitioner has now approached this Court, through the present petition, seeking the appointment of a Sole Arbitrator to adjudicate the dispute/s.



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13. Learned counsel for the respondents does not dispute the existence of the arbitration agreement. As such, in terms of the judgment of the Supreme Court in *In Re: Interplay between Arbitration Agreement under the Arbitration and Conciliation Act, 1996 and the Indian Stamp Act, 1899*, 2023 SCC OnLine SC 1666 and *SBI General Insurance Co. Ltd. v. Krish Spinning*, 2024 INSC 532, there is no impediment to constituting an arbitral tribunal to adjudicate the disputes between the parties.

14. Learned counsel for the respondents accedes that an independent Sole Arbitrator be appointed by this Court to adjudicate the disputes between the parties.

15. Accordingly, Ms. Justice (Retd.) Deepa Sharma, Former Judge, Delhi High Court (Mobile No.: +91 9910384631) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

16. The respondents shall be entitled to raise preliminary objections as regards jurisdiction/arbitrability, which shall be decided by the learned arbitrator, in accordance with law.

17. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.

18. The learned Sole Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

19. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.



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20. Needless to say, nothing in this order shall be construed as an expression of this court on the merits of the case.

21. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

DECEMBER 23, 2024/sv

Signature Not Verified

Digitally Signed By: ROHIT
KUMAR PATEL
Signing Date: 08.01.2025
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