



\$~171

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 17068/2024 & CM APPLs. 72425-72426/2024**
ABHISHEK GOELPetitioner

Through: Mr. Karan Khetani, Mr. Siddharth
Mullick and Mr. Arun Kumar,
Advocates.

versus

DELHI ARBITRATION CENTRE & ORS.Respondents
Through: Mr. Kanishk Rana, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **10.12.2024**

1. The Petitioner and Respondent No. 2 are currently engaged in arbitration proceedings arising out of the Micro Small & Medium Enterprises Development Act, 2006.¹ The Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950 impugning the procedural order dated 6th December, 2024 whereby the Sole Arbitrator has directed the parties to lead their evidence by way of affidavit, denying the parties to lead any oral evidence, including chief examination or cross-examination of witnesses.

2. Counsel for the Petitioner highlights that under Section 29B of the Arbitration and Conciliation Act, 1996, parties can agree to have their

¹ "the MSMED Act"



dispute resolved by a fast track procedure specified in Sub-section (3) of Section 29B, whereby the Arbitral Tribunal can dispense with certain technical formalities and proceed to decide the disputes on the basis of the pleadings and documents. However, in the instant case, Petitioner had not agreed to such a procedure and Petitioner's right to lead oral evidence has been curtailed by the Arbitrator on his own whims and fancies and is in violation of the principles of natural justice.

3. On the other hand, counsel for the Respondent No. 2 has drawn the attention of this Court to the procedural order dated 9th September, 2024 passed in the arbitration proceedings wherein it has been recorded as follows:

"Both the parties have submitted that they have gone through the proposed schedule for completion of pleadings and practice directions to which they agree to abide by and have no objection to this tribunal arbitrating according to the scheduled provided in pre-hearing notice."

4. Further, he submits that the Petitioner had agreed to the Schedule referred to in afore-noted order, which was provided in the pre-hearing notice which reads as follows:

"4. The prayers made in the Claims and Counter-Claims, if any, shall be treated as issues. The arbitration proceedings under the MSMED Act, 2006, are statutory proceedings and will be conducted under a summary procedure. As such, there shall be no oral evidence, including chief examination or cross-examination of witnesses."

5. In response, counsel for the Petitioner states that the Petitioner had only agreed to the timelines specified in the Schedule, however, the Petitioner did not waive their right for leading oral evidence, by examination of witnesses.

6. Upon being queried by the Court, counsel for Respondent No. 2, on



instructions, states that he has no objection in case the parties were to lead oral evidence, however, he submits that the Petitioner should not delay the proceedings.

7. Counsel for the Petitioner, in response, states that there shall be no delay in the proceedings and they would conduct the arbitration within the timelines specified under the Arbitration and Conciliation Act, 1996.

8. In light of the above, the present writ petition is disposed of with a direction to the Arbitral Tribunal, to afford both the parties the right to lead oral evidence which would include examination-in-chief and cross-examination of witnesses. The examination-in-chief as directed by the Arbitral Tribunal can be filed by way of affidavits.

9. The timelines for conduct of trial shall be fixed by the Arbitral Tribunal having regard to the deposition of witnesses of both parties, in accordance with the framework laid down in the Arbitration and Conciliation Act, 1996.

10. With above directions, the present petition, along with pending applications, is disposed of.

SANJEEV NARULA, J

DECEMBER 10, 2024
AS