
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. ARBITRATION APPLICATION NO. 251 OF 2024

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TATA Capital Limited

... Applicant

Versus

GEE PEE Foods Private Limited
& 5 Ors.

...Respondents

Mr. Nikhil Mehta *i/b KMC Legal Venture, for Applicant.*

None for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : January 8, 2025

P. C.

1. This is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“*the Arbitration Act*”), seeking appointment of an arbitrator, pursuant to the arbitration agreement contained in Loan Agreement dated October 29, 2015.

2. It is seen from the record that on the basis of the arbitration agreement which contains a power for the Applicant to make a unilateral appointment, an arbitrator came to be appointed some time in March 17, 2023. The law on unilateral appointment of the arbitrator has been clearly declared by the Supreme Court as being *per se* illegal, and consequently, the arbitrator

withdrew from the reference by an order dated June 3, 2023. It is seen from the record that Respondent No.1 indeed objected to the unilateral appointment before the arbitrator who had earlier been appointed unilaterally and consequently, it is evident that they are indeed aware of the invocation of the arbitration proceedings.

3. Before this Court, after repeated attempts, substituted service was permitted, to issue notice to the Respondents and it is seen from the service affidavit dated June 13, 2024, that substituted service has indeed been effected.

4. In these circumstances, no fruitful purpose would be served by letting this Application remain pending before this Court any further. Consequently, the following order is passed allowing this Application :

- a. Mr. Prateek Pansare, an Advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above. The contact details are set out below :

Office Address: 11C, Examiner Press Building,
Dalal Street, Near BSE, Fort, Mumbai - 400 001.
Email: prateek@pansare.in
Contact No.: +91 8087639191 / +91 8956056743

- b. A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from today. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;
- c. The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to the parties within a period of two weeks from receipt of a copy of this Order;
- d. The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;
- e. All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs; and
- f. The parties have agreed that the venue and seat of the arbitration will be in Mumbai. It is clarified that it shall be open to the Arbitral

Tribunal to conduct the proceedings online through electronic mode.

5. This Application is ***finally disposed of*** in the aforesaid terms.
6. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]