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

+ **ARB.P. 436/2025**

VADS CONSULTING PRIVATE LIMITEDPetitioner

Through: Mr. Nikhil Fernandes, Advocate.

versus

SHALU SHARMARespondent

Through: Mr. R.S. Rathi and Ms. Kusum,
Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **08.05.2025**

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1. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. As per the case set up by the Petitioner, which is a Private Limited Company engaged in the business of outsourcing and offshoring consultants, including but not limited to providing offshore services in Bookkeeping, payroll, taxation, Financial Statement and Virtual Assistant Services under the Brand name 'Global FPO'. Respondent was offered employment in Petitioner's office at Noida after being successful in the interview and Employment Agreement was executed between the parties on 27.08.2022. Subsequently, Respondent was made a permanent employee and a fresh Agreement was executed on 23.08.2024.



3. It is stated in the petition that without any cause, Respondent resigned from the Petitioner Company on 10.10.2024 and later sent an e-mail dated 16.10.2024 citing medical reasons, which was wholly unprofessional, leading to inconvenience to the Petitioner as also financial loss and loss to goodwill with the clients, who refused to pay the invoices raised.

4. Learned counsel for the Petitioner submits that as per Clause 5(c) and (d) of the Employment Agreement, it was agreed between the parties that Respondent shall serve three months' notice if she desired to leave the job, which Respondent failed to give and suddenly resigned in contravention of the terms of employment. Employment Agreement dated 23.08.2024 contains Arbitration Clause 9(f), which provides that all disputes and differences arising in connection with the Employment Agreement shall be referred to Sole Arbitrator/Mediator to be appointed by the Employer Company and therefore, Petitioner sent an invocation notice dated 23.11.2024, which was duly served on the Respondent vide Registered Post on 25.11.2024. Respondent replied to the notice on 30.11.2024, denying the claims raised by the Petitioner and declined to propose the name of a Sole Arbitrator, leaving no option with the Petitioner but to approach this Court. It is urged that there is no denial to the existence of the Arbitration Agreement in the reply to the invocation notice and the only stand is that the Agreement was signed by her under undue influence and pressure and/or that Respondent was allegedly harassed by the Company's officials, which is wholly incorrect and false. Moreover, this issue can only be adjudicated by the learned Arbitrator and is beyond the scope of examination by a referral Court under Section 11(6) of 1996 Act.

5. Learned counsel for the Respondent, on the other hand, submits that



Respondent was made to work for long hours and also suffered mental harassment as Company's officials would misbehave with her. Respondent was often made to work till late hours in the night and in fact, Respondent's father went into depression on account of the odd hours of working and his health suffered. After the death of Respondent's father, in compelling circumstances and due to undue influence, Respondent was made to sign the Employment Agreement on 23.08.2024 on an assurance that the Agreement will be ineffective if Respondent resigned in the middle of October, 2024. In a nutshell, the argument is that reference cannot be made to arbitration since the very Employment Agreement has been signed under pressure.

6. Heard learned counsels for the parties and examined their submissions.

7. It is no longer *res integra* that scope of adjudication under Section 11 of 1996 Act is limited. The Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754***, held that scope of examination under Section 11(6) of 1996 Act is confined to the existence of an Arbitration Agreement on the basis of Section 7 of 1996 Act. The examination of validity of the Arbitration Agreement is also limited to the requirement of formal validity such as the requirement that Agreement should be in writing. It was further held that use of the term '*examination*' under Section 11 (6-A) as distinguished from the term '*rule*' under Section 16 implies that the scope of enquiry under Section 11(6-A) is limited to a *prima facie* scrutiny of the existence of the Arbitration Agreement and does not include a contested or laborious enquiry which is to be left to the Arbitral Tribunal. In ***Goqii Technologies Private Limited v. Sokrati Technologies Private Limited, (2025) 2 SCC 192***, the Supreme Court very



recently reiterated this position and held that a detailed examination of the factual matrix etc., beyond the examination of existence of an Arbitration Agreement, is impermissible.

8. In the present case, an Employment Agreement was executed between the parties and purportedly bears the signatures as also thumb impressions of the Respondent on each page as also at the end of the Agreement. It is not the case of the Respondent, either in the reply to the invocation notice or in the reply filed in this Court, that no such Agreement was executed, perhaps conscious of the fact that thumb impressions are difficult to deny. The only plea is that the Agreement was signed by her under pressure and undue influence. Additionally, the reply substantially focuses on the alleged harassment caused to the Respondent due to misbehaviour of Company's officials and late working hours. Insofar as the allegations of harassment are concerned, this cannot be examined by the Court in the present petition. Insofar as the allegation that the Employment Agreement was signed under undue pressure is concerned, to my mind, this concerns the veracity of the document, which can only be tested by leading evidence and this exercise is best left to the Arbitrator. Once the existence of the Arbitration Agreement is beyond dispute, this Court finds no impediment in appointing the Arbitrator.

9. Accordingly, this petition is allowed, directing the Coordinator, Delhi International Arbitration Centre ('DIAC') to appoint a Sole Arbitrator to adjudicate the disputes between the parties. Arbitration proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be as per the DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.



10. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

11. All rights and contentions of the parties, including the contention of the Respondent that the Agreement was signed under pressure, are left open.

12. Petition is disposed of in the aforesaid terms.

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13. This application is filed by the Respondent for a direction to the Petitioner to issue relieving-cum-letter to the Respondent as also to relieve 15 days' salary.

14. In my view, the relief sought in this application is beyond the scope of this petition and the application cannot be entertained.

15. Application is dismissed, leaving it open to the Respondent to take recourse to appropriate remedies for the reliefs claimed.

JYOTI SINGH, J

MAY 08, 2025/RW