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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 15.09.2025

+ **O.M.P. 7/2022 & I.A. 15153/2022, I.A. 2736/2023, I.A. 24781/2023**
I.A. 24783/2023

NATIONAL FEDERATION OF TOURISM AND TRANSPORT
COOPERATIVES OF INDIA LIMITED & ANR.

.....Petitioners

Through: Mr. Ankur Arora, Advocate, Mr.
Shrey Chathly and Ms. Srishti
Sharma, Advs.

versus

HINDUSTAN LABOUR MULTISTATE COOPERATIVE
SOCIETY LIMITED & ORS.

.....Respondents

Through: Mr Rohit K. Yadav, Adv. for R1-2
Mr. Udit Arora, Adv for R11

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

I.A. 24782/2023-EX.

Allowed subject to all just exceptions.

The application stands disposed of.

O.M.P. 7/2022

1. This is a petition filed under section 34 of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") seeking to challenge the Award dated 09.08.2022 passed by the Sole Arbitrator.
2. The brief facts are that the petitioner No.1 is a cooperative organisation



actively engaged in developing tourism and transport industry in India. The petitioner No. 2 was the Chairman of the petitioner No.1. The respondent No. 1 is the member of the petitioner No. 1 and the respondent No. 2 is the alleged Chairman of the respondent No. 1. The respondent No. 3 is the Returning Officer, who conducted elections of the Board of Directors of the petitioner No. 1 on 17.01.2022 and inducted respondent Nos. 4 to 17 to the Board of Directors of the petitioner No. 1.

3. Aggrieved by the said elections, the respondent Nos. 1 and 2 filed a petition under section 84 of the Multi State Cooperative Societies Act, 2002 which was referred to the Sole Arbitrator by the Registrar of the Cooperative Societies.
4. The petitioner No. 1 moved an application under section 12(3) and 13 of the 1996 Act before the Sole Arbitrator which was orally rejected on 09.08.2022. On the same date, the Sole Arbitrator passed the impugned Award declaring the election conducted on 17.01.2022 of the Board of Directors of the petitioner No. 1 as null and void, which is under challenge in the present petition.
5. Since the petitioner No. 1 was aggrieved in the manner of conducting the arbitration proceedings, the petitioner filed a petition under section 14 and 15 of the Arbitration and Conciliation Act, 1996 being O.M.P. (T) 7 of 2022 before this Court which was subsequently withdrawn.
6. Mr. Arora, learned counsel for the petitioner only raises one issue which is that no declaration under section 12 of the 1996 Act was given by the Sole Arbitrator prior to or during the arbitration proceedings.
7. Mr. Yadav, learned counsel for the respondent Nos. 1 and 2 accepts the



factual position that no prior declaration or any declaration under section 12 of 1996 Act was given by the Sole Arbitrator.

8. In ***Bharat Broadband Network Ltd. v. United Telecoms Ltd., (2019) 5 SCC 755***, the Hon'ble Supreme Court has observed that if the Arbitrator fails to file disclosure in terms of section 12(1) read with Fifth Schedule of 1996 Act, the remedy of the party, post Award, would be to apply under section 34 of 1996 Act to the Court to set aside the Award. Relevant paragraph is extracted below:

“14. From a conspectus of the above decisions, it is clear that Section 12(1), as substituted by the Arbitration and Conciliation Amendment Act, 2015 [“Amendment Act, 2015”], makes it clear that when a person is approached in connection with his possible appointment as an arbitrator, it is his duty to disclose in writing any circumstances which are likely to give rise to justifiable doubts as to his independence or impartiality. The disclosure is to be made in the form specified in the Sixth Schedule, and the grounds stated in the Fifth Schedule are to serve as a guide in determining whether circumstances exist which give rise to justifiable doubts as to the independence or impartiality of an arbitrator. Once this is done, the appointment of the arbitrator may be challenged on the ground that justifiable doubts have arisen under sub-section (3) of Section 12 subject to the caveat entered by sub-section (4) of Section 12. The challenge procedure is then set out in Section 13, together with the time limit laid down in Section



13(2). What is important to note is that the arbitral tribunal must first decide on the said challenge, and if it is not successful, the tribunal shall continue the proceedings and make an award. It is only post award that the party challenging the appointment of an arbitrator may make an application for setting aside such an award in accordance with Section 34 of the Act.”

9. The Division Bench of this Court in **Ram Kumar v. Shriram Transport Finance Co. Ltd., 2022 SCC OnLine Del 4268** and more particularly in paragraphs 22, 23 and 24 observed as under:-

“22. It is necessary to note that the language of Section 12(1) of the A&C Act does not leave it at the discretion of any person, approached in connection with being appointed as an arbitrator, to make the necessary disclosures. The use of the words “he shall disclose” in Section 12(1) of the A&C Act makes it mandatory for the person who is approached in connection with his possible appointment as an arbitrator, to make a disclosure of all circumstances that may give rise to justifiable doubts as to his independence and impartiality.

23. In terms of Explanation 2 to Section 12(1) of the A&C Act, such disclosure is to be made in the form specified in the Sixth Schedule of the A&C Act. It may be sufficient compliance of the Explanation if the necessary particulars, as required to be disclosed in the Sixth Schedule, are disclosed but the disclosure is not in the format as provided. However, it would be erroneous to assume that the requirement of making a



disclosure is not mandatory.

24. This Court is of the view that the requirement of making a disclosure is a necessary safeguard for ensuring the integrity and efficacy of an arbitration as an alternate dispute resolution mechanism and is not optional.”

10. From the aforesaid judgments, it is evident that a declaration mandated under section 12 of 1996 Act is a necessary safeguard for ensuring integrity and efficacy of the arbitral mechanism. Non-furnishing of a declaration vitiates the Arbitral Award and the Award so pronounced is *void ab initio*.
11. Since, the Award is liable to be set aside on this ground alone, I need not dwell into the merits of the Award. Consequently, the petition needs to be allowed.
12. The petitioner No. 2 and the respondent Nos. 1 and 2 agree that since there are disputes subsisting between the parties, the Sole Arbitrator may be appointed by this Court.
13. For the said reasons, the petition is allowed and with consent of the parties, the following directions are issued:-
 - i) Mr. Asheesh Jain, Senior Advocate (Mob. No. 9999822288) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the ‘DIAC’).
 - iii) The Sole Arbitrator is requested to furnish a declaration in



- terms of section 12 of the 1996 Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - v) The parties shall approach the Arbitrator within two weeks from today.
- 14.** Since it is an election matter and the subject matter is incapable of monetary quantification, the Sole Arbitrator shall fix his own fees.
- 15.** With these directions, the petition is hereby disposed of.

JASMEET SINGH, J

SEPTEMBER 15, 2025 / (MS)
(Corrected and released on 22.09.2025)