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

\+ ARB.P. 1262/2025

SUNIL JAIN .....Petitioner

Through: Mr. Vipul Wadhwa, Ms. Kashika Gera and Mr. Shreyash Choudhary, Advocates.

versus

HERO FUTURE ENERGIES PRIVATE LIMITED .....Respondent

Through: Mr. Sandeep Kapur, Ms. Tahira Karanjawala, Ms. Manmeet Kaur, Mr. Gurtej Pal Singh, Ms. Rose Varma, Mr. Saurabh Misra, Mr. Saurabh Jha, Ms. Kholi Rakuzhuro and Ms. Ayreen Mir, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% **06.10.2025**

1. This petition is filed on behalf of the Petitioner under Section 11(5) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes arising out of and in relation to Employee Stock Option Plan, 2015 and Appointment Letter dated 20.03.2013 issued in favour of the Petitioner.

2. It is Petitioner's case that he was offered the position of Chief Executive Officer in Hero Future Energies Private Limited (HFEPL), on 20.03.2013. It was stipulated in Annexure-1 of the Appointment Letter that ESOPs were scheduled to vest from two from the date of appointment i.e., April, 2014 to April, 2018 and beyond the year 2018, no time discount would be applied at the time of exercising the ESOPs vested in favour of the Petitioner. Petitioner was subsequently appointed as Executive Director on 15.11.2012.

3. It is averred in the petition that in 2015 ESOP Policy 2015 was formulated by HFEPL and on 04.03.2016 Petitioner was offered 84,00,000 ESOPs at an exercise price of Rs.10/- from the grant date i.e., 01.10.2015. On 30.03.2018, HFEPL was amalgamated with M/s Clean Solar Power (Hiriyur) Pvt. Ltd. (CSPL) and a letter was issued to the Petitioner intimating that all statutory employee benefits and all terms and conditions of employment will stand transferred to CSPL. Pursuant to the amalgamation name of CSPL was changed to HFEPL/Respondent herein.

4. Petitioner resigned from his position of CEO and Executive Director on 31.08.2020 and on 29.08.2023 Respondent issued a letter asking the Petitioner to accept a cash compensation of Rs.8,00,57,858/- purportedly in lieu of ESOPs under the 2015 Policy, without any basis for the valuation. Petitioner contested this position and disputes having arisen, a notice invoking arbitration in terms of Clause 22 of ESOP, 2015 was sent on 11.06.2025 under Section 21 of the 1996 Act. Respondent sent a reply dated 09.07.2025, reiterating that the cash compensation was offered correctly and disagreed with the names proposed by the Petitioner for appointment of the Arbitrator.

5. Learned counsel for the Respondent takes an objection to the appointment of Arbitrator on the ground that after the amalgamation, Respondent adopted 2025 plan and Clauses 4.9 and 26.11 thereof make the plan applicable to participants under the 2015 plan, which stands superseded. Petitioner has invoked arbitration under 2015 plan, which no longer exists. Counsel for the Petitioner, on the other hand, submits that right of the Petitioner to claim ESOPs stems from 2015 Policy and since he resigned on 31.08.2020, 2025 Policy cannot apply to the Petitioner. In any

event, this is a dispute on merit and can only be decided by the Arbitrator.

6. Heard learned counsels for the parties.

7. The dispute in the present case relates to the claim of the Petitioner towards cash compensation under the ESOPs to which the Petitioner was entitled, according to him, under the 2015 Policy. Respondent refutes the claim on the ground that the said Policy was superseded by 2025 Policy after amalgamation and Arbitration Clause 22 under the 2015 Policy cannot be invoked by the Petitioner. In my *prima facie* view, once the Petitioner resigned on 31.08.2020, he will be entitled to benefits under the Policy that was in vogue at that time and not under the Policy which came into effect after the Petitioner resigned and his umbilical cord was broken with the employer. Be that as it may, this would be the matter within the remit of the Arbitrator and is outside the domain of the Referral Court under Section 11 of the 1996 Act. As per the judgment of the Supreme Court in ***SBI General Insurance Company Limited v. Krish Spinning, 2024 SCC OnLine SC 1754***, the remit of a Referral Court is to examine the existence of the Arbitration Agreement and whether the petition is barred by limitation under Article 137 of the Limitation Act, 1963.

8. Accordingly, Mr. Justice N.V. Ramana, former Chief Justice of India (Mobile No.9818000162) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties. Fee of the Arbitrator shall be fixed as per Fourth Schedule of 1996 Act, as agreed between the parties.

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

10. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are

left open. It will be open to the Respondent to raise the objection of applicability of 2015 Policy in respect of the claims of the Petitioner before the learned Arbitrator.

11. At this stage, learned counsels for the parties submit that in the meantime they may be permitted to explore the possibility of an amicable settlement and seek reference to Delhi High Court Mediation and Conciliation Centre.

12. Accordingly, parties are referred to mediation before the Delhi High Court Mediation and Conciliation Centre, where they shall appear on 28.10.2025. The learned Arbitrator is requested not to enter upon reference for a period of 60 days from today. Parties shall inform the learned Arbitrator of the outcome of the mediation proceedings.

13. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

OCTOBER 6, 2025/Ch