OCD 4

ORDER SHEET
AP-COM/668/2025
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

FROSTEES INDIA PVT. LTD.
VS
PASCHIM BANGA SOCIETY FOR SKILL DEVELOPMENT

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 5th February, 2026.

Appearance:
Mr. S. Ghosh, Adv.
Mr. Dyutimoy Paul, Adv.
. . .for the petitioner.

Mr. Arindam Mandal, Adv.
Mr. Paritosh Sinha, Adv.
. . .for the respondent.

The Court:

1. This is an application for appointment of an Arbitrator. The petitioner seeks enforcement of the Memorandum of Understanding. The petitioner prays for appointment of an Arbitrator for resolution of disputes which arose out of the Memorandum of Understanding dated November 1, 2017 and non-compliance of the terms and conditions provided in the brochure for trainings under Utkarsh Bangla 2017-18. The Memorandum of Understanding was executed between the petitioner and the respondent for imparting training projects under Utkarsh Bangla Guidelines. The petitioner contends to have

implemented the training projects successfully and fulfilled all deliverables under the MoU, in consonance with the guidelines of Utkarsh Bangla.

2. It is contended that a sum of Rs. 53,79,244.00 has been illegally withheld by the respondent. Clause 9 of the MoU contains an arbitration clause which provides that the parties agreed that any dispute arising out of the said MoU shall be addressed mutually by them and if the amicable settlement fails, the dispute shall be referred to a nominated representative by the first party, in accordance with the amended act, who will act as an Arbitrator for that purpose and whose decision shall be final and binding. The jurisdiction has been agreed as the Calcutta High Court.

3. According to the petitioner, last payment was made some time in May 2019. Thereafter, although the trainees were placed under respective employers and had continued to be in employment, the guidelines were violated by the respondent and the money due and payable under Clause 2.7.2 of the Guidelines was violated. The said Clause is quoted below:

> "2.7.2 The Funding Norms would be as per the following:
>
> a) The TP shall be paid not more than 80% of the total fees payable on successfully assessed students before the placement and tracking reports are completed.
>
> b) A minimum of 20% of the training fees payable to the training providers shall be linked to placement of the

trained candidates and the submission of the "Post Training Tracking report" covering a period of 12 months from the date of completion of training and after the trainee remains in continuous employment of 6 months.

c) Security Bank Guarantee shall be released on completion of 18 months from the date of starting commencement of the batch as mentioned in the work order."

4. Mr. Mandal, learned advocate for the respondent, submits that the claim of the petitioner is deadwood. The last payment was received in 2019. The dispute relates solely to non-payment of outstanding dues. The period of limitation expired much earlier. The notice invoking arbitration was issued on July 28, 2025. Even going by the dates mentioned by the respondent in the supplementary affidavit that the last payment was made in September 30, 2021 and the Covid period is excluded in computing the period of limitation, the notice invoking arbitration would still be beyond the period of three years from accrual of cause of action.

5. Having considered the rival contentions of the parties, it appears to this Court that the petitioner seeks substantial enforcement of Clause 2.7.2 of the guidelines. The said clause provides that 20% payment shall be made upon the trainees not only being employed but having stayed in employment for a period of six months from the date of such employment.

6. Under such circumstances, reliance has also been placed on certain documents which indicate that the respondent was communicating with the petitioner even in August, 2022 after disempanelment of the petitioner, seeking compliance of certain terms and conditions of the guidelines. Annexure A to the supplementary affidavit dated December 24, 2025 stands testimony to such fact.
7. The petitioner was asked by the representative of the respondent to circulate a message with regard to the holding of a job fair amongst the candidates who were trained by the petitioner. A document has been produced before this Court with the details of placement of 13 trainees, and their employers. The placement seems to have taken place some time in 2022. Thus, even if, part of the claim is time barred, this Court finds that issue of 20% of the payment under Clause 2.7.2 of the guidelines is yet to be decided. Thus, the arbitrator will decide such issues.
8. However, these are, prima facie, observations of the Court in support of the finding that limitation in this case is a mixed question of law and fact and the same has to be decided upon the parties by leading evidence.
9. Under such circumstances, this Court allows the application by appointing Mr. Satyam Mukherjee (8017382322) as the learned Advocate, as the learned Arbitrator, to adjudicate the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

10. The learned Arbitrator shall fix her remuneration as per the Schedule of the Act.

11. All objections with regard to jurisdiction, arbitrability, admissibility and limitation etc, are left open.

12. AP-COM 668 of 2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

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