
(2009) 09 DEL CK 0196

In the Delhi High Court

Case No : IA No. 7446 of 2009 in CS (OS) 641 of 2009

K. Vallabhdas

APPELLANT

Vs

Rotary International and Others

RESPONDENT

Date of Decision : 07-09-2009

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 45, 5

Citation : (2009) 112 DRJ 493 : (2010) 7 RCR(Civil) 1976

Hon'ble Judges : S.L. Bhayana, J

Bench : Single Bench

Advocate : S. Ravishankar and Yamunah Nachiar, for the Appellant; Rajiv Dutta Indrani Ghosh, Nitin Kala and Sandeep Mahapatra for Defendant Nos. 1 to 3 and H.S. Jaggi and Hardik Luthra for Defendant No. 5, for the Respondent

Judgement

S.L. Bhayana, J.—This application has been filed by defendant No. 2 u/s 45 read with Section 5 of the Arbitration and Conciliation Act 1996 for referring the matter to the arbitration.

2. Learned Counsel for defendant No. 2 states that the subject matter of the above suit relates to the election of defendant No. 5 to the post of Director of the Rotary International from Zone 6 for the year 2009-2011. The plaintiff has filed the suit on account of the rejection of his candidature as a challenging candidate. The plaintiff has also made allegations that the defendants have failed to observe the Bye Laws of Rotary International and that since the defendants have failed to grant relief the same may be granted by this Court. Learned Counsel for the defendants further submits that the disputes which have arisen between the parties are governed by the Bye Laws of Rotary International which deal with such an eventuality as raised by the plaintiff in the suit and the same is governed by the following Bye Laws:

Article 24.010: Disputes

Should any disputes other than as to a decision of the board arises between any

current or former member(s) of a Rotary district, RI or an RI Officer, on any account whatsoever which cannot be settled amicably, the dispute shall, upon a request to the General Secretary by any of the disputants, be resolved by mediation or, if mediation is refused by one or more parties, be settled by arbitration. Such a request for mediation or arbitration should take place within sixty (60) days of the concurrence of the dispute

Article 24.030: Mediation.

The procedure for such mediation shall be set by the Board. Either of the disputants may request the General Secretary, or someone appointed by the General Secretary for this purpose, to appoint a mediator who is the member of the Rotary Club, other than that of the disputing parties, and who has appropriate mediation skills and experience

Article 24.040: Arbitration.

In the event of a request for arbitration, each party shall appoint an arbitrator and the arbitrator shall appoint an umpire. Only a member of a Rotary club, other than that of the disputants may be appointed as umpire or arbitrator

Article 24.050: Decision of Arbitrators or Umpire.

If arbitration is requested, the decision by the arbitrator or, if any disagree, by the umpire shall be final and binding on all and shall not be subject to appeal.

3. Learned Counsel for defendant No. 2 further submits that keeping aforesaid articles in view, this matter can be referred to the arbitration as per the Bye Laws of the Rotary International and since the plaintiff is the member of the Rotary International he is bound by the Bye Laws of the Rotary International and in view of the Bye laws of the Rotary International such like matter must be referred to the arbitration.

4. On the other hand, learned Counsel for the plaintiff has submitted that the plaintiff is agreeable to refer the matter to the arbitration provided the arbitrator to adjudicate the present dispute may be appointed by this Court who is absolutely without any bias and not by the authorities of the Rotary International.

5. Heard counsel for both the parties.

6. It is an admitted fact that the plaintiff is the member of the Rotary International and disputes have arisen between the parties pertaining to the election of defendant No. 5 to the post of Director. Bye Laws of the Rotary International are binding on both the parties and the procedure set forth therein for appointment of arbitrator has to be followed otherwise it will amount to deviation from contractual obligation and therefore plaintiff is bound by the Bye Laws. As per Articles 24.010, 24.030, 24.040 and 24.050, the matter has to be referred to the arbitration in terms of the above said articles and in this regard a request can be made to the General Secretary of the Rotary International or someone appointed by the General Secretary for this purpose, to appoint a

mediator who is the member of the Rotary Club and who has appropriate mediation skills and experience in the arbitration. In the event of a request for arbitration, each party shall appoint an arbitrator and the arbitrator shall appoint an umpire. Only a member of a Rotary Club, other than that of the disputants may be appointed as umpire or arbitrator.

7. In view of the aforesaid articles, it is therefore ordered that the General Secretary of the Rotary International is directed to appoint one arbitrator and the plaintiff is also to appoint an arbitrator who will be the member of the Rotary Club and both the arbitrators thereafter will appoint an umpire. It is, therefore ordered that the decision by the arbitrators shall be binding on the parties and in case of any disagreement, the decision of the umpire shall be final and binding on all the parties.

8. With these observations, the application stands disposed of.

CS(OS) No. 641/2009

9. Since the matter has been referred to the arbitration nothing survives in the suit. Accordingly, the suit is disposed of. All pending applications are also stand disposed of.