

(2022) 03 DEL CK 0075

In the Delhi High Court

Case No : Arbitration Petition No. 951 Of 2021

M/S Gyan Bharti Institute Of Skill Development

APPELLANT

Vs

Government Of Nct Delhi Through Director (Academics) And
Anr.

RESPONDENT

Date of Decision : 10-03-2022

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 11(6), 12(2), 21

Citation : (2022) 03 DEL CK 0075

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : V.P. Singh, Vipin Pillai, Satyakam, Gautam Narayan

Final Decision : Allowed

Judgement

C. Hari Shankar, J

1. The petitioner was imparting vocational training to students as per the module of Respondent 1, the Director (Academics), GNCTD, and was being reimbursed, in that regard, by Respondent 1. Vide circular dated 21st January, 2015, Respondent 2, the Union of India, directed all Vocational Training Providers (VTPs) to install Integrated Bio-Metric Attendance Devices and link the devices with the Skill Development Initiative Scheme (SDIS) Portal by 31st January, 2015. The petition avers that the petitioner installed the necessary bio-metric attendance device, but that, owing to poor connectivity, attendance of students could not be properly uploaded on the SDIS Portal. Despite this hiccup, the petitioner claims to have continuously and uninterruptedly conducted vocational training classes and trained students.

2. The grievance of the petitioner is that Respondent 1 has not reimbursed the petitioner's training costs, despite repeated reminders. A legal notice dated 31st March, 2021, from the petitioner, provoked a response from Respondent 1 on 18th June, 2021, directing the petitioner to file additional documents. These

documents, too, as per the petition, were filed on 30th June, 2021. The respondent, thereafter, is stated to have cleared other pending bills, but have not cleared the bills of the petitioner.

3. A dispute thus having arisen between the parties, the petitioner seeks resolution of the dispute by arbitration.

4. The petitioner relies on the following arbitration clause, contained in an agreement dated 8th April, 2021:

"6.8 Arbitration : it is agreed by both the parties that any differences of disputes arising upon or in relation or in connection with the contract between both the parties, which has not been settled amicably shall be referred to Sole Arbitrator to be nominated by the First Party under the provisions of (Indian) Arbitration and Conciliation Act, 1996 and the award so given by the Arbitrator will be wholly binding on all the parties and shall not be questioned under any circumstances."

5. The main contention of the respondent, in its reply, that the model agreement was not signed by the respondent. The reply, however, candidly acknowledges the fact that the petitioner had signed the agreement and had forwarded the agreement for signature to Respondent 1, but that the authorised signatory in the office of Respondent 1 could not sign the agreement "due to administrative reasons". The default in signature, therefore, prima facie, is on the part of Respondent 1.

6. On 8th April, 2021, the petitioner issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996, to the respondent, seeking reference of the dispute to arbitration. No response having been received from Respondent 1, the petitioner has moved this Court under Section 11(6) of the 1996 Act.

7. Though the reply to this petition questions to its maintainability, primarily on the ground that the arbitration clause, on which the petitioner relies, was contained in a model agreement which, though signed by the petitioner, was not signed by the respondent and suffers, therefore, from want of consensus ad idem, Mr. Satyakam, learned Standing Counsel for Respondent 1 consents, with characteristic candour, to reference of the dispute to arbitration by an arbitrator appointed by the Court, as the petitioner had signed the agreement and the respondent was unable to sign it owing to administrative reasons.

8. The Court appreciates the fairness in the stand exhibited by Mr. Satyakam, which obviates the necessity of having to enter into the aspect of maintainability, though some arguments were advanced by Mr. V.P. Singh, learned Counsel for the petitioner on that behalf.

9. Accordingly, the dispute between the parties is referred to the Delhi International Arbitration Centre (DIAC), which would proceed to appoint a suitable arbitrator to arbitrate on the dispute.

10. The arbitration would take place under the aegis of the DIAC and would abide by its rules and regulations.
11. The arbitrator would be entitled to charge fees in accordance with the schedule of fees maintained by the DIAC or as otherwise fixed by the arbitrator in consultation with the parties.
12. The arbitrator would also furnish the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.
13. It is made clear that this Court has not expressed any opinion on the merits of the controversy between the parties and that all questions of fact and law remain open to be agitated in the arbitral proceedings.
14. The petition stands allowed in the aforesaid terms with no orders as to costs.