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

+ W.P.(C) 13833/2024, CM APPL. 57948-57949/2024

LALIT MOHAN

.....Petitioner

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Mr. Prakhar Mithal and Ms. Vaishali Shukla, Advocates.

versus

M/S. NATIONAL AGRICULTURAL CO. FEDERATION OF INDIA LTD. (NAFED)

.....Respondent

Through: Mr. Aaditya Vijay Kumar and Ms. Akshita Katoch, Advocates.

**CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA**

ORDER
01.10.2024

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1. The present petition assails order dated 7th September, 2024,¹ passed by the Arbitral Tribunal in the ongoing arbitration proceedings between the Petitioner and the Respondent. The said order reads to the following effect:

“1. The matter was fixed today. An email was received after 7:35 p.m. last evening from the Claimant's Counsel, Ms. Akshita Katoch, seeking an adjournment. This resulted in Claimant's Counsel not issuing the virtual link for the hearing. Claimant's Counsel was requested to issue the requisite link, as any further date would be given with the consent of both the parties.

¹ “the impugned order”



2. It is stated by the Claimant's Counsel that objections have been filed by the them before the Hon'ble NCLT, seeking dismissal of Respondent's application U/s 94 of the Insolvency and Bankruptcy Code, 2016. Further, another creditor Mis Punjab & Sind Bank has sought time to file objections. Ld. Counsel submits that the matter is now listed on 19.09.2024, when she expects the matter to be finally disposed of.

*3. Ld. Counsel for the Respondent does not object to the adjournment. Accordingly, the matter is adjourned to **21.10.2024 at 4:00 p.m. through virtual mode**. Respondent to issue the requisite Zoom/Google Meet link for the virtual hearing and intimate to all, well in advance. Tribunal shall also consider the feasibility of signing the Award, without pronouncing it, which would be kept in abeyance, pending decision on Respondent's application. Respondent's Counsel has already been heard on this aspect."*

2. The Petitioner points out that during the pendency of the arbitration proceedings, personal insolvency proceedings under Section 94 of the Insolvency and Bankruptcy Code, 2016,² were initiated before the National Company Law Tribunal, Bench-III, New Delhi. Petitioner preferred an application before the Arbitrator to apprise them about the initiation of interim moratorium as provided under Section 96 of the IBC. Despite the said application, the afore-noted order was passed by the Arbitral Tribunal observing that the award may be signed without pronouncing it and may be kept in abeyance pending the decision on the Petitioner's application under Section 94 of the IBC.

3. Counsel for the Petitioner submits that the impugned order is in violation of Section 96 of the IBC which mandates a moratorium on all legal proceedings, including arbitration, once insolvency proceedings are initiated under Sections 94 and 95 of the Code. He further argues that the Arbitral Tribunal's observation that the award may be kept in abeyance, undermines

² "IBC"/ "the Code"



the intent of the moratorium. Even if the award is not formally pronounced, the act of signing the award is an integral step in the arbitral process and may impact subsequent proceedings, including enforcement actions or settlement discussions.

4. The Court has considered the afore-noted contentions but remains unpersuaded. The question of maintainability of a writ petition in relation to arbitration proceedings is well settled. The jurisdiction of the Court under Articles 226 and 227 of the Constitution of India, 1950, cannot be invoked where the orders passed by the Arbitral Tribunals are procedural in nature. This view has been expressed by this Court in several decisions including *C.S Construction Company Private Limited and Another v. Excelling Geo and Engineering Consultant and Others*,³ *Emerald Industries v. Tata Aldesa JV*,⁴ *M/s Lisraj Overseas Private Limited v. M/s Maa Sheetla Ventures Limited*,⁵ and *Surender Kumar Singhal and Others v. Arun Kumar Bhalotia and Others*.⁶

5. Additionally, as can be seen from the impugned order, the Arbitral Tribunal has clearly and specifically observed that the Tribunal shall “consider the feasibility of signing the Award, without pronouncing it, which would be kept in abeyance, pending decision on Respondent's application.”. This clearly indicates that there is no finality on this issue. Hence, the Court does not deem fit to entertain the present petition.

6. Accordingly, the present petition, along with pending application(s),

³ 2024:DHC:5644

⁴ W.P.(C) 12110/2024, decided on 02nd September, 2024

⁵ W.P.(C) 10515/2024, decided on 31st July, 2024

⁶ 2021:DHC:1097



if any, is disposed of.

SANJEEV NARULA, J

OCTOBER 1, 2024

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