

Ministry Of Youth Affairs And Sports, ... vs Ernst And Young Pvt. Ltd(Now Known As ... on 13 February, 2019

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ O.M.P. (COMM) 377/2018
MINISTRY OF YOUTH AFFAIRS AND SPORTS, DEPT. OF
SPORTS, GOVT. OF INDIA Petitioner
Through Mr. Rajeev Mehra, Sr. Adv. with Mr.
Neeraj Chaudhary and Mr. Jyoti
Kumar Mangalam, Advs.

versus

ERNST and YOUNG PVT. LTD(NOW KNOWN AS ERNST and
YOUNG LLP) and ANR. Respondents
Through Mr. P. Parag Tripathi, Mr. A.K.
Thakur, Mr. R.K. Mishra, Mr. Rishi
Raj, Mr. Lalitaksh Joshi and Ms.
Kavita Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER
ORDER

% 13.02.2019

1. A preliminary objection has been raised on behalf of the respondents with regard to the maintainability of the petition on the ground of limitation.

2. The following facts are not disputed.

3. The award was passed on 11.12.2017.

4. The petitioner had moved an application under Section 33 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act') on 10.1.2018. 4.1 The petitioner had sought oral hearing of its application. 4.2 The respondents upon notice being issued on petitioner's application preferred under Section 33 filed a reply.

4.3 The Arbitral Tribunal without granting an oral hearing in the matter disposed of the petitioner's application under Section 33 of the 1996 Act on 7.3.2018.

5. Thereupon, an email dated 7.5.2018 was sent by the petitioner to the Arbitral Tribunal seeking oral hearing of its application which had already been disposed of on 7.3.2018.

6. The record seems to suggest that on 17.5.2018, the Arbitral Tribunal made certain other corrections, albeit, on its own in the award dated 11.12.2017.
7. Thereafter, via an email dated 21.5.2018, the petitioner wrote to the Arbitral Tribunal that it had not received a copy of the order dated 7.3.2018 to which reference was made in the Arbitral Tribunal's order dated 17.5.2018.
8. Consequently, the Arbitral Tribunal via a return mail dated 22.5.2018 sent a scanned copy of the order dated 7.3.2018 to the petitioner. However, in this communication, the Arbitral Tribunal made note of the fact that a copy of the order dated 7.3.2018 had been sent to the petitioner via registered post.
9. Furthermore, it appears that on 4.6.2018 the petitioner, once again, sought oral hearing in the matter.
10. The Arbitral Tribunal on 13.6.2018 replied, and took the position that it had become functus officio.
11. In view of what has emerged, in my opinion, it would be necessary to ascertain as to whether or not the petitioner had received a copy of the order dated 7.3.2018 via registered post, as indicated in the Arbitral Tribunal's email dated 22.5.2018.
12. The Registry will summon the arbitral record, if it has already not been received by it.
13. List the matter for further hearing on the aspect of limitation on 12.4.2019.

RAJIV SHAKDHER, J FEBRUARY 13, 2019/rb