

91 Springboard Business Hub Private ... vs Boston Institute Of Analytics Global ... on 26 March, 2025

Author: Purushaindra Kumar Kaurav

Bench: Purushaindra Kumar Kaurav

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1953/2024

Date of Decis

IN THE MATTER OF:

91 SPRINGBOARD BUSINESS HUB PRIVATE LIMITED

Through: Mr. Sagar Shivam Jaiswa
Nikunj Garg and Mr. Vis
Advs.

versus

BOSTON INSTITUTE OF ANALYTICS GLOBAL EDUCATION
PRIVATE LIMITEDRespondent

Through: None.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner has filed three affidavit(s) of service.
2. The first affidavit of service dated 10.01.2025 reads as under:-

"1. I am the counsel for petitioner in the matter and have the knowledge of the proceedings emanating from the petition

2. I say that I have served the copy of the petition for appointment of arbitrator to the Respondent on the registered e-mail ID of the respondent on 09.01.2025 as available on the portal of MCA and also on the e-mail id available with the petitioner in their record which is as patilbandla.srinivas@bostoninstituteofanalytics.org, ashwin@bostoninstituteofanalytics.org.psrinivas7@outlook.com.

3. The email sent to patilbandla.srinivas@bostoninstituteofanalytics.org, ashwin@bostoninstituteofanalytics.org, has bounced back and not delivered, however, the e-mail sent on psrinivas7@outlook.com has not bounced back. The copy

of e-mail is annexed herewith as ANNEXURE-

Digitally Signed By:PRIYA
Signing Date:02.04.2025
18:01:47

A/1.

4. .I say that the above affidavit is true and correct to the best of my knowledge and record available."

3. The second affidavit of service dated 24.03.2025 reads as under:-

"1. I am the counsel for petitioner in the matter and have the knowledge of the proceedings emanating from the petition.

2. I say that I have served the copy of the petition for appointment of arbitrator to the Respondent on the registered e-mail ID of the respondent on 23.03.2025 as available on the portal of MCA and also on the e-mail id available with the petitioner in their record which is as patilbandla.srinivas@bostoninstituteofanalytics.org, ashwin@bostoninstituteofanalytics.org, and psrinivas7@outlook.com, anuradha.sharma@bostoninsituteofanalytics.org.

3. The email sent to patilbandla.srinivas@bostoninstituteofanalytics.org, and anuradha.sharma@bostoninsituteofanalytics.org has bounced back and not delivered, however, the e-mail sent on ashwin@bostoninstituteofanalytics.org, and psrinivas7@outlook.com has not bounced back. The copy of e-mail is annexed herewith as ANNEXURE-A/1.

4. I say that the above affidavit is true and correct to the best of my knowledge and record available."

4. The third affidavit dated 25.03.2025, reads as under:-

"1. I am working with the petitioner company in the matter and have the knowledge of the proceedings emanating from the petition.

2. I say that I have served the dasti notice upon the respondent on the following addresses as below on 12.03.2025, however, the representative of the respondent, after receiving the dasti notice, refused to acknowledge the receipt of same. The address is as below:

A. ADDRESS MENTIONED IN THE AGREEMENT BOSTON INSTITUTE OF

GLOBAL ANALYTICS PRIVATE LIMITED AT: FLOOR-12, KANAKIA WALL STREET, ANDHERI EAST, MUMBAI - 400093 E-Mail:patilbandla.srinivas@bostoninstituteofanalytics.org: B. REGISTERED ADDRESS MENTIONED IN MCA DATA: BOSTON INSTITUTE OF GLOBAL ANALYTICS PRIVATE LIMITED Digitally Signed By:PRIYA Digitally Signed Signing Date:02.04.2025 By:PURUSHAINDRA 18:01:47 KUMAR KAURAV AT: B-1213, B-1214, B-1214A,WALL STREET AK ROAD, CHAKALA,ANDHERI, MUMBAI, MAHARASHTRA - 400093 C. ADDRESS MENTIONED IN THE REPLY (DOCUMENT-G) FOR DASTI BOSTON INSTITUTE OF GLOBAL ANALYTICS PRIVATE LIMITED AT: 1214 B -1214A, KANAKIA WALL STREET, ANDHERI EAST, MUMBAL, MAHARASHTRA, - 400093

3. I say that I tried to affix the dasti notice at the entrance of office of respondent but I was restrained from doing so by the employees of the respondent company. However, I duly informed the proceedings against them and also informed the next date of hearing.

4. I say that the above affidavit is true and correct to the best of my knowledge and record available."

5. At this juncture, reference can be drawn to the case of Lease Plan India (P) Ltd. v. Rudraksh Pharma Distributor¹ wherein, this Court permitted the service of the petition by email and WhatsApp. In the said decision, the Court held as follows:-

"7. It is nonetheless clear that the respondents have been duly served by email and WhatsApp. It may be noted that the email address and the mobile number of the respondents is mentioned in the Agreement itself [at page Nos. 35, 37, 40 and 43 of the petition]. The affidavit of service dated 28.03.2024, affirmed by the authorised representative/legal counsel of the petitioner - company, demonstrates service by both these modes.

8. Although service by email and WhatsApp is sufficient, it may also be noted that in the Agreement itself, the address of the respondent for the purposes of correspondence, provided in Clause 10.3, is the address at which service has been attempted. The notice invoking arbitration sent to the same address was reported to have been delivered, but in the Speed Post report, by which the petition was sent to the address, it is stated that no such person is available at the address."

6. Taking into consideration the submissions advanced, the affidavit of service placed on record by the petitioner, and the steps undertaken to effect 2024 SCC OnLine Del 2687 Digitally Signed By:PRIYA Digitally Signed Signing Date:02.04.2025 By:PURUSHAINDRA 18:01:47 KUMAR KAURAV service upon the respondents through email as well as dasti, the Court is satisfied that the respondents have been duly served.

7. In view of the above, this Court is constrained to proceed ex parte against the respondents. Ordered accordingly.

8. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (the 1996 Act) by the petitioner, seeking appointment of an Arbitrator to adjudicate upon the dispute between the parties, in terms of the Membership Agreement dated 11.10.2023

9. Heard learned counsel appearing on behalf of the petitioner.

10. A perusal of the petition reveals that, pursuant to mutual negotiations, a Membership Agreement dated 11.10.2023 was executed between the parties, whereby the respondent was entitled to avail co-working space services with access for seven members, for a monthly membership fee of Rs.70,210/-. It is the case of the petitioner that the respondent has defaulted in the payment of the agreed monthly membership fees from February 2024 onwards. Consequently, as per the terms of the agreement, an amount of Rs.4,48,038/- has become recoverable from the respondent, inclusive of outstanding monthly dues and charges arising from breach of the mandatory lock-in period. The petitioner thus contends that the respondent is in breach of the aforesaid Membership Agreement.

11. The Court takes note of the Arbitration Clause 17(f) of the Appointment Letter dated 11.10.2023, which reads as under:-

"Dispute Resolution: Any dispute arising out of or in connection with this Terms of Offer which is not resolved within 21 (Twenty-One) days after the service of a notice by a Party on the other, including any question regarding its existence, validity or termination shall be referred to and finally resolved through arbitration by a sole arbitrator nominated mutually by both parties under the Arbitration and Digitally Signed By:PRIYA Digitally Signed Signing Date:02.04.2025 By:PURUSHAINDRA 18:01:47 KUMAR KAURAV Conciliation Act, 1996 and other applicable provisions thereof. In the event the parties are not able to mutually appoint one arbitrator within 5 days from the commencement of discussion to this effect, each party would appoint one arbitrator who will in-turn appoint a third arbitrator who would be the chairperson of the tribunal thus constituted. The arbitration proceedings shall be in the English language and shall be held in New Delhi. The arbitration award shall be final and binding on the Parties."

12. It is evident that where there exists an arbitration clause, and in event any dispute has arisen between the parties, there is no impediment in appointing an independent Sole Arbitrator for adjudicating the disputes between the parties. In this regard, reference can be made to the following judgments of the Supreme Court in Perkins Eastman Architects DPC v. HSCC (India) Ltd.,² TRF Limited v. Energo Engineering Projects Ltd.,³ Bharat Broadband Network Limited v. United Telecoms Limited.,⁴ and Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re 5.

13. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the appointment letter, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

14. Accordingly, Ms. Ashu Rani, (Mobile No.+91-99536-45078; email ID: ashugoyal4138@gmail.com) is appointed as the sole Arbitrator.

15. The learned Arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the 1996 Act within a week of entering on reference. The Sole Arbitrator shall be entitled to fee in accordance with the IVth Schedule of the A&C Act; or as may otherwise be agreed to between the (2020) 20 SCC 760 (2017) 8 SCC 377 2019 SCC OnLine SC 547 Digitally Signed By:PRIYA Digitally Signed Signing Date:02.04.2025 By:PURUSHAINDRA 18:01:47 KUMAR KAURAV parties and the learned Sole Arbitrator.

16. The parties shall share the Arbitrator's fee and arbitral cost, equally.

17. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the Sole Arbitrator on their merits, in accordance with law.

18. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. All rights and contentions of the parties in this regard are reserved. Let the copy of the said order be sent to the newly appointed Arbitrator through the electronic mode as well.

19. Accordingly, the instant petitions stand disposed of.

PURUSHAINDRA KUMAR KAURAV, J MARCH 26, 2025/DPA/SP Click here to check corrigendum, if any 2023 SCC OnLine SC 1666.

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