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

+ ARB.P. 23/2018

NATIONAL INTERNET EXCHANGE OF
INDIA

..... Petitioner

Through: Mr Ravi Kishore, Mr Niraj Singh and
Mr Alok Srivastav, Advocates.

versus

SANJEEV RAMNIWAS GOYAL

..... Respondent

Through: Mr Shashank Garg, Mr Tariq Khan
and Mr Debojyoti Sengupta,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **24.05.2018**

IA No. 7010/2018

1. The applicant has filed the present application, *inter alia*, praying that the order dated 15.03.2018 be extended for a period of forty-five days or till the disposal of the application under Section 17 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'). It is pointed out that the Arbitral Tribunal could not be constituted as the applicant had appointed its own serving director as an arbitrator, who was disqualified to act as such.
2. Mr Garg, learned counsel appearing for the respondent objected to the conduct of the petitioner. He has pointed out that the applicant had already filed objections against the respondent's nominee arbitrator alleging that the arbitrator nominated by the respondent suffered with disabilities under the

fifth and the seventh schedules of the Act. Therefore, the applicant was fully aware of those provisions and yet nominated its serving Director as an arbitrator. He submitted that the conduct of the applicant in doing so was not *bonafide* and was intended to delay the proceedings.

3. Although, the grievance articulated by Mr Garg appears justified, this Court is not inclined to examine the same at this stage. It will be open for the respondent to raise the same before the arbitral tribunal and claim costs on account of delay in the proceedings. Needless to state that the same would be considered by the arbitral tribunal on its own merits.

4. The applicant has now proceeded to appoint Mr Gopal Singh, Advocate as its nominee arbitrator. Mr Garg has serious objections to such unilateral appointment as he states that the applicant has forfeited its right to do so. However, this Court has no reservation in the appointment of Mr Gopal Singh as an arbitrator. Therefore, the question whether he could have been appointed by the respondent, need not detain this court. In order to avoid any further controversy in this regard, it is directed that the appointment of Mr Gopal Singh, Advocate be considered as an appointment by this Court. He has also made a disclosure as required under Section 12 of the Act and the disclosure made by him, does not indicate that he is interested in the subject matter of disputes or disqualified in any manner to act as an arbitrator.

5. Insofar as the interim order is concerned, the same is extended for a period of two weeks from today. It is clarified that no further extension shall be granted.

6. The application is disposed of.
7. Order be given *dasti* under signature of Court Master.

MAY 24, 2018
RK

VIBHU BAKHRU, J