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United Nations Commission on International Trade Law

CASE LAW ON UNCITRAL TEXTS (CLOUT)

United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards – The “New York Convention” (NYC)

Case 2209: NYC V

India: High Court of Delhi

Case No. OMP (EFA) (COMM) 06/2017

Raffles Education Investment (India) Pte. Ltd v. Educomp Professional Education Limited

7 July 2023

Original in English

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The key issue examined in the case was whether an award which is in contravention of Indian Law would render it unenforceable under Part II of the Indian Arbitration and Conciliation Act 1996.

The petitioner and the respondent, both for-profit entities, partnered to run a joint venture (JV) company in the field of education, through a charitable society. In 2015, the respondent sought to exit the JV, leading to a share purchase agreement where the petitioner would acquire the respondent's shares. The agreement also included provisions for the respondent to ensure the resignation of its representatives in the society, which it failed to do, resulting in a breach of the agreement.

The petitioner was awarded damages in an arbitration award dated 31 March 2017, in a Singapore-seated arbitration administered by a Singaporean arbitral institute. The petitioner subsequently sought enforcement of this award in the Delhi High Court under Chapter I, Part II of the Arbitration and Conciliation Act, 1996. The respondent resisted enforcement of the award on the ground of public policy, arguing that the agreement between the parties gave a for-profit entity control over a charitable society and monetized its membership.

The petitioner argued that merely breaking a law or regulation does not automatically breach the “public policy of India” or “fundamental principles of Indian law”. It was further argued that, to successfully object on these grounds, a party must demonstrate (1) a clear violation of a core principle, one universally upheld by the Indian courts; and (2) it is proven that enforcing it contradicts established legal principles.



The Court rejected the respondent's objections and confirmed the arbitral award. The Court observed that fundamental Indian legal policy includes public policy which encompasses overarching principles integral to the Indian legal framework. Indian law permits for-profit entities to establish charitable societies, which does not violate foundational legal principles. There is no explicit ban on foreign nationals being society members, and their involvement in charitable societies is not against Indian public policy.

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