



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 9th September, 2025
Judgment pronounced on: 16th September, 2025

+ ARB.A. 3/2025 & I.A. 20074/2025

JAMIA HAMDARD DEEMED TO BE UNIVERSITY

.....Appellant

Through: Mr. Sanjay Sharawat, Senior Advocate
with Dr. Swaroop George, Mr.
Mobashshir Sarwar, Mr. Abhinandan
Jain, Mr. Takrim Ahsan Khan, Mr.
Sunil Roy, Mr. Ayush Aanand and Mr.
Shivam Prajapati, Advocates.

versus

ASAD MUEED & ORS.

.....Respondents

Through: Mr. Rajiv Nayar, Senior Advocate and
Mr. Sandeep Sethi, Senior Advocate
with Mr. Saket Sikri, Ms. Simran
Mehta, Mr. Vikalp Mudgal, Mr.
Priyansh Choudhary and Mr. Ajay Pal,
Advocates.
Mr. Sudhir Nadrajog, Sr. Advocate
with Mr. Shreyans Singhvi, Ms.
Tanuja Singh, Ms. Ankita Singh and
Ms. Madhu Yadav, Advocates for R-3
to R-5.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

1. The present appeal has been filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter 'the Act') challenging the



interim order dated 12th August, 2025 passed by the Arbitral Tribunal comprising a Sole Arbitrator on an application under Section 17 of the Act.

FACTUAL BACKGROUND

2. The appellant, Jamia Hamdard, established as a Society on 26th April, 1989 under the Societies Registration Act, 1860, was declared a deemed university by Gazette Notification dated 10th May, 1989. The appellant established the Hamdard Institute of Medical Sciences and Research ('HIMSR') during 2010-2012 with statutory approvals for MBBS and MD/MS programmes in its name.

3. Pursuant to a Family Settlement Deed dated 22nd October, 2019 read with the amended Family Settlement Deed dated 21st February, 2020 (hereinafter 'Family Settlement Deed/FSD'), it was agreed that HIMSR would be separated from Jamia Hamdard and it would be vested as a going concern with Hamdard Education Society ('HES'), subject to compliance with applicable law. This Court, in LPA No. 374 of 2019, by order dated 22nd November, 2019, recorded an undertaking by appellant to facilitate the Family Settlement Deed within the limits of law and regulations.

4. Over the years, several disputes arose with regard to the control, management, and alleged financial irregularities in HIMSR. The appellant, by letters dated 6th June, 2025, called upon the National Medical Commission ('NMC') and Medical Counselling Committee ('MCC') to withdraw 150 MBBS and 49 MD/MS seats allotted to HIMSR for the Academic Year 2025-26.

5. The NMC *vide* its letter dated 10th July, 2025 sought clarification from the appellant regarding the status of consent of affiliation of HIMSR. In response, the appellant *vide* its communication dated 11th July, 2025



reconfirmed the withdrawal of all previous letters of consent for offering MBBS, MD/MS programmes in HIMSR issued by the appellant for the new academic year 2025-26. Based on the aforesaid communication, NMC decided not to renew the aforesaid MBBS seats by its order dated 23rd July, 2025, communicated to the appellant on 24th July, 2025.

6. After passing of this order, the respondents no.1 and 2 herein, who were claimants in the arbitration (hereinafter ‘claimants’), filed an application under Section 17 of the Act before the Arbitral Tribunal seeking interim reliefs.

7. The Arbitral Tribunal, by the impugned order dated 12th August, 2025, passed certain interim directions. The present appeal has been filed challenging the aforesaid order.

SUBMISSIONS ON BEHALF OF THE APPELLANT

8. The grievances of the appellant against the impugned order as articulated by Mr. Sanjay Sharawat, senior counsel appearing on behalf of the appellant are as follows:

- i. The appellant is not a party to the Arbitration Agreement. In fact, an application for impleadment of the appellant is pending adjudication before the Arbitral Tribunal, which has not been pressed by the claimants. The impugned order has been passed without giving an opportunity of being heard to the appellant.
- ii. The impugned order passed by Arbitral Tribunal is in teeth of the order passed by the Division Bench of this Court on 21st July, 2025 in LPA 455/2025.
- iii. By way of the impugned order, the appellant has been directed to extend support to the claimants and HIMSR in their attempt to be included in



the counselling process of the sanctioned seats for the MBBS course for the academic year 2025-26, even though the respondents herein have been in violation of the UGC regulations. In this regard, attention of the Court has been drawn to the order passed by the NMC on 23rd July, 2025 (pages 159 to 162 of the documents filed along with the petition as Document-4) and letter dated 24th July, 2025 sent by NMC to the appellant (pages 163 to 164 of the documents filed along with the petition as Document-5).

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

9. *Per contra*, Mr. Rajiv Nayyar, senior counsel appearing on behalf of the respondents herein, has made the following submissions:

- i. The disputes before the Arbitral Tribunal are in relation to a Family Settlement Deed entered into between members of the Hamdard Family, claimants on one side and respondents no.3 to 5 herein (hereinafter 'respondents in the arbitration') on the other side. It is submitted that as per the terms recorded in the Family Settlement Deed, the appellant shall be under the control of a Committee, Hamdard Education and Cultural Aid Committee ('HECA') which is managed by respondents in the arbitration, whereas HIMSR shall be under the Medical Relief and Education Committee ('MREC') which is managed by the claimants.
- ii. This Court *vide* order dated 20th September, 2022 in a petition under Section 9 of the Act, i.e. O.M.P. (I) (COMM.) 7/2022 (hereinafter 'Section 9 petition') had passed detailed directions while appointing the Arbitral Tribunal to adjudicate the disputes between the parties. The



directions passed by the Arbitral Tribunal in the impugned order are similar to the directions passed by this Court in the order dated 20th September, 2022.

- iii. The appellant is trying to disrupt the functioning of HIMSR by making complaints to NMC, which is in violation of the Family Settlement Deed.
- iv. It is wrong to contend that the impugned order has been passed by the Arbitral Tribunal without giving an opportunity to the appellant of being heard. The counsel for the appellant has been appearing before the Arbitral Tribunal. Further, various orders passed by the Arbitral Tribunal as well as the applications filed before the Arbitral Tribunal have been marked to the appellant.

FINDINGS AND ANALYSIS

10. I have heard the counsel for the parties.

11. At the outset, reference may be made to the reliefs sought by the claimants in the application under Section 17 of the Act filed by them before the Arbitral Tribunal, in which the impugned order was passed. The reliefs sought by the claimants are set out herein below:

*“1. The Claimants, by this application under section 17 of the Arbitration and Conciliation Act, 1996 (**‘the said Act’**), have requested the Tribunal to:*

“a) Pass an ex-parte ad-interim order/direction order staying the letter dated 06.06.2025 bearing F.No. JH/ RO/ HIMSR/UG admissions/2025-26/ECOR/75 issued by the Registrar (Officiating), Jamia Hamdard, to the UGMEB & MCC, AND/OR

b) Pass an ex-parte ad-interim order/direction order thereby directing Jamia Hamdard including its officers, employees, representatives and the Respondents from interfering with the functioning of HIMSR and its associate hospital under the



administrative, financial and academic control of the claimants through HNF(MREC)/Hamdard Education Society, AND/OR

c) Pass an ex-parte ad-interim order/direction order thereby directing Jamia Hamdard including its officers, employees, representatives and the Respondents to extend all support to the Claimants and HIMSR to be included in the counselling and admission process of MBBS/MD courses for the academic year 2025-26, AND/OR

d) Pass any other(s)/direction(s) as deemed fit in the facts and circumstances of the case.”

12. To be noted, out of the aforesaid reliefs sought by the claimants, the Arbitral Tribunal in the impugned order has only passed direction *qua* prayer ‘c’. The operative directions passed in paragraphs 34, 35 and 36 of the impugned order which are set out below:

“34. Coming to prayer (c), the Claimants/Applicants are seeking an order/direction directing Jamia Hamdard including its officers, employees, representatives and the Respondents to extend all support to the Claimants and HIMSR to be included in the counselling and admission process of MBBS/MD courses for the academic year 2025-26. It was contended on behalf of the Claimants that they would take steps whether before NMC or courts or any other appropriate forum seeking the grant of renewal of 150 MBBS seats to HIMSR for the academic year 2025-26. It was submitted on behalf of the Claimants that when they do so, the Respondents and Jamia Hamdard should not oppose and, in fact, should support such attempts. It is clear that survival of HIMSR and its functioning as contemplated under the FSD is of prime importance if the FSD is to be implemented in letter and spirit.

35. Accordingly, it is directed that the Respondents and Jamia Hamdard shall extend all support to the Claimants and HIMSR in their attempts before the appropriate forum/ fora to be included in the counselling and admission process of the MBBS (150 seats) course for the academic year 2015-26. Of course, such support by the Respondents and Jainia Hamdard has to be within the confines of law. At the same time, the Respondents and Jamia Hamdard should be careful not to set up a purported legal hurdle, when none exists, so as to deny HIMSR the said 150 MBBS seats. Jamia Hamdard, though yet not a party to the present arbitration is bound by its



assurance and commitment given to the Hon'ble High Court that it will "facilitate the implementation of the directions given by the learned arbitrator.

36. If, pursuant to the efforts made the parties and Jamia Hamdard, NMC decides to include the 150 MBBS seats of HIMSR in the seat matrix, leave of the Hon'ble Single Bench of the Hon'ble High Court of Delhi, in terms of the order dated 21.07.2025 passed by the Hon'ble Division Bench in LPA 455/2025, would have to be taken."

13. A reading of the aforesaid paragraphs reveals that the Arbitral Tribunal has given a direction to the respondents in the arbitration and the appellant, to extend support to the claimants and HIMSR in their attempt to secure 150 MBBS seats for the academic year 2025-26. However, the Arbitrator clarifies that the support has to be within the confines of the law. The impugned order further directs that the appellant should not create "*purported legal hurdles*" so as to deny the 150 MBBS seats to HIMSR for the academic year 2025-26. This would necessarily imply that if the claimants and HIMSR are not acting within the confines of law, the appellant need not support them.

14. In my view, the aforesaid directions passed in the impugned order are broadly in line with the directions passed by this Court on 20th September, 2022 in the Section 9 petition. In fact, the directions passed by this Court in its order dated 20th September, 2022 under Section 9 petition were set out by the Arbitral Tribunal in the impugned order and are reproduced below for the ease of reference:

"9. Learned Senior Counsel for the parties also submit that the petitioners and respondent Nos. 1 to 3 may, at this stage, be referred to arbitration in these proceedings itself, with liberty to seek interim measures of protection from the learned arbitrator. As far as the respondent No. 4 is concerned, it is not a party to the FSD but has, as noted above, assured the Court that it would facilitate its implementation



in accordance with law and subject to the regulations by which it is bound.

10. ***Learned Senior Counsel for the parties also submit that in accordance with this intention, and towards the immediate implementation of the FSD, to the extent that it requires HIMSR to be controlled by the MREC through HES, certain documents are required to be executed. The documents include a No Objection Certificate and a Deed of Assurance from the University. The petitioners also seek execution of a User Agreement in terms of the FSD and the resolution passed by the University on 03.07.2021. Mr. Vasdev reiterates that all the documents required to enable HIMSR to establish itself independently of the control of HECA and under the control of the MREC will be issued by the University as required by the petitioners, consistent with the UGC regulations.***

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13. a. ***With the consent of learned counsel for the petitioners and the respondent Nos.1, 2 and 3, the disputes between them under the FSD are referred to the arbitration of Hon'ble Mr. Justice Badar Durrez Ahmed, former Chief Justice of the High Court of Jammu and Kashmir [Tel:- 7042205786]. At Mr. Vasdev's request, at this stage the University is not made a party to the arbitral proceedings. However, it is open to the parties to make an application before the learned arbitrator in this regard, if so advised.***

b. ***It is expected that the parties will cooperate with each other in the spirit of the FSD and the resolution of the University. Although the University is not being referred to the arbitration at this stage, Mr. Vasdev states that the University will facilitate the implementation of the directions given by the learned arbitrator in this regard.***

c. ***With this objective, it is further directed as follows: -***

- i. ***The computation of the amounts due from the petitioners' group to respondent Nos. 1 to 3 in terms of Clause 25 of the FSD, read with Annexure V thereof, will be placed before the learned arbitrator within two weeks. The parties may seek necessary direction in this regard from the learned arbitrator, including for the amounts to be deposited with him in escrow.***
- ii. ***Mr. Vasdev states that the documents required to be issued by the University will be issued simultaneously upon deposit of the***



amount contemplated by Clause 25 of the FSD read with Annexure V therein by the petitioners.

iii. *The petitioners will furnish quarterly accounts as directed in paragraph 12 above.*

iv. ***Mr. Nandrajog states that the respondent Nos. 1 to 3 have not interfered, at any stage, in the independent functioning of HIMSR under the MREC. He assures the Court that they will continue to cooperate with the petitioners in maintaining the independent status of HIMSR under the MREC and will not take any steps inconsistent therein.***

d. *The parties may make their respective claims under the FSD before the learned arbitrator. It is made clear that the parties may also approach the learned arbitrator for further directions under Section 17 of the Act. The directions given in this order are only intended to hold the field until the learned arbitrator has the opportunity to consider the matter and pass further directions, as may be required from time to time. The parties are at liberty to seek modification, variation, or vacation of the orders passed by this Court before the learned arbitrator.*

e. *Learned Senior Counsel for the parties state that the learned arbitrator may be requested to fix his own remuneration in accordance with law.*

14. *The petition stands disposed of in these terms.”*

[Emphasis Supplied]

15. In fact, the specific prayer (prayer ‘a’) sought by the claimants with regard to staying the letter dated 6th June, 2025 written by the appellant to MCC has not been granted.

16. In respect of prayer ‘b’ as sought by the claimants directing the appellant to not interfere with the functioning of HIMSR, the impugned order merely reiterates that the parties and the appellant are bound by the Family Settlement Deed. In this regard, paragraph 33 of the impugned order is set out below:

“33. Now coming to the prayers, according to the Respondents, prayer (a) of the application has become infructuous inasmuch as a stay of Jamia



*Hamdard's letter of 06.06.2025 has been prayed for and NMC, noting the contents of that letter, has already decided to not grant renewal of 150 MBBS seats to HIMSR. This submission is correct as no stay of the letter dated 06.06.2025 can be granted at this stage because it has been acted upon by NMC by virtue of its decision dated 23.07.2025. **Insofar as prayer (b) is concerned, the FSD as also the assurances in this regard given by the parties and Jamia Hamdard continue to bind them.***

[Emphasis Supplied]

17. Taking note of the operative directions contained in paragraphs 34, 35 and 36 of the impugned order as set out above, it was put to the counsel for the appellant as to what is the prejudice caused to the appellant by the aforesaid directions.

18. In response, Mr. Sharawat, senior counsel appearing on behalf of the appellant submits that the aforesaid directions are in violation of the order passed by the Division Bench on 21st July, 2025 in LPA 455/2025.

19. The aforesaid submission is completely unsustainable, as while passing this order, the Arbitral Tribunal has taken into account the order passed by the Division Bench on 21st July 2025. The directions of the Division Bench have been duly recorded by the Arbitral Tribunal in paragraph 8 of the impugned order. In terms of the order passed by the Division Bench, it has been directed in paragraph 36 of the impugned order that in the event NMC decides to include 150 MBBS seats of HIMSR in the seat matrix, it would have to take leave of the Single Bench of this Court. Hence, there is no merit in the aforesaid submission raised by the appellant.

20. Mr. Sharawat submits that prejudice is caused to the appellant as on the basis of the aforesaid impugned order, the claimants/HIMSR have initiated various legal proceedings against the appellant, including a contempt petition, an execution petition and the claimants have also placed reliance on the



impugned order in their appeal filed against the order passed by the NMC on 23rd July, 2025.

21. A party is free to pursue legal remedies that may be available to it in law. Merely, because the respondents have initiated various legal proceedings based on the aforesaid impugned order cannot be the basis to say that the order is erroneous or prejudices the appellant. It is for the appellant to appear and suitably safeguard their interest in the proceedings initiated by the claimants/HIMSR.

22. Now I shall deal with the contention of the appellant that the appellant was not a party in the present arbitration proceedings and hence, no order could be passed against the appellant. It is an undisputed fact that appellant was a party in the petition filed under Section 9 of the Act being O.M.P. (I) (COMM). 7/2022, and directions therein were passed in the presence of the counsel for the appellant. The aforesaid order specifically notes that even though appellant is not being referred to arbitration it would still be bound by the directions given by the Arbitral Tribunal.

23. On 2nd March, 2023, a *status quo* order was passed by Arbitral Tribunal while disposing of applications under Section 17 of the Act, wherein the parties were directed to maintain *status quo* as on 20th September, 2022 with regard to the status of HIMSR. The appellant has not filed any appeal against the aforesaid order of the Arbitral Tribunal. In fact, it has relied upon the same in a Writ Petition filed before this Court bearing W.P. (C) No. 12090/2023. The relevant paragraph 4 of the order dated 14th September, 2023, passed in the aforesaid Writ Petition is set out below:



“4. While the matters are pending, the immediate provocation for filing the present writ petition is that HIMSR and HES have applied for a new electricity connection for HIMSR, which has been granted by BSES. Ms. Makhija submits that this tends to disturb the status-quo, which has been preserved by interim directions of the learned Arbitrator dated 02.03.2023.”

[Emphasis Supplied]

24. The claimants have drawn attention of the Court to the various orders passed by the Arbitral Tribunal, where the appellant has appeared through counsel. Attention of the Court has also been drawn to various e-mail communications related to the arbitration proceedings wherein the appellant was marked. In fact, a perusal of the emails exchanged between the parties would show that the appellant was made aware of the hearing in the present application fixed for 26th July, 2025, however, the appellant has chosen not to appear.

25. In light of the factual analysis above, it may be relevant to discuss the scope of interference of the Court while adjudicating an appeal under Section 37(2)(b) of the Act. In this regard, a reference may be made to the judgments of a Coordinate Bench of this Court in ***Dinesh Gupta & Ors. v. Anand Gupta & Ors.***¹, and ***L&T Finance Limited. v. DM South Hospitality Private Limited***², wherein, this Court has held that the scope of an appeal under Section 37(2)(b) of the Act is limited and it cannot be treated as an appeal under the Code of Civil Procedure, 1908. The scope of the said appeal would be circumscribed by the provisions of Section 5 of the Act and the Court has to be cautious while entertaining the same.

¹ 2020 SCC OnLine Del 2009.

² 2021 SCC OnLine Del 5571



26. The relevant observations of the Court in ***L&T Finance Limited*** (Supra) are set out below:

*“50. It is hazardous, therefore, for an arbitral tribunal exercising jurisdiction under Section 17, to embark on a detailed analysis of the clauses of the contract. This would amount to a pre-trial determination of the issues in controversy and would also be inimical to the concept of a dispassionate arbitral process. **So long as the Arbitral Tribunal appreciates the contentions and protects the rights of the parties which would result, were their contentions to be accepted at the final stage, the Arbitral Tribunal would be entirely within its authority in issuing interlocutory protective directions.** To reiterate, the two main factors which are required to weigh with the Arbitral Tribunal at that stage are (i) protection of the arbitral corpus and preservation of the arbitral process, and (ii) balancing of equities between the parties. While doing so, of course, the arbitral tribunal is required to bear, in mind, the considerations of the existence of a prima face case, balance of convenience, and the possibility of irreparable loss or prejudice to one or the other party, were interim protection to be, or not to be, granted.*

*51. **Acute awareness of this legal position is expected, of the appellate court exercising jurisdiction under Section 37(2)(b) of the 1996 Act. It cannot proceed to interfere with interlocutory protective orders, passed by the arbitral tribunal under Section 17, by sifting through the contract and its covenants with a toothcomb.** While, in the matter of the extent of its jurisdiction, with respect to the nature of order which it would pass, the Section 37(2)(b) court enjoys all the latitude which any appellate court would enjoy, it remains, however, subject to the constraints which would apply to any court, seized with a challenge to an arbitral award. **Discretionary orders, passed by the arbitral tribunal under Section 17, are not easily to be trifled with. So long as the arbitral tribunal adheres to the broad principles of equity and protects the claims of the parties, predicated on the covenants of the contract and their respective contentions, the discretion enjoyed by the arbitral tribunal under Section 17 is required to be respected...***

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*52. **The scope of judicial review by Court exercising Section 37(2)(b) jurisdiction cannot not, therefore, be likened to appellate jurisdiction in the classical sense. It remains, at all times, circumscribed by the pre-***



eminent consideration that the order under challenge is interlocutory, discretionary and one rendered by an arbitral tribunal, entitled to all the proscriptive protections which attach to the arbitral process in general.”

[Emphasis Supplied]

27. It is essential that a Court, while exercising appellate jurisdiction under Section 37(2)(b) of the Act, over an interlocutory order of the Arbitral Tribunal, particularly one passed under Section 17 of the Act, keeps in mind the distinct limits of the Arbitral Tribunal’s jurisdiction and the appellate court’s power. The Court’s role is limited to examining whether there is any jurisdictional error or patent illegality or perversity in the order, and not to re-evaluate the merits of the decision.

28. In my considered view, the Arbitral Tribunal has passed a reasoned order balancing the equities of the parties.

29. In view of the discussion above, no grounds are made out under Section 37(2)(b) of the Act to interfere with the impugned order passed by the Arbitral Tribunal.

30. Accordingly, the appeal is dismissed.

31. Pending application stands disposed of.

**AMIT BANSAL
(JUDGE)**

SEPTEMBER 16, 2025/at