



सत्यमेव जयते

# INDIA NON JUDICIAL Chandigarh Administration

## e-Stamp

Certificate No. : IN-CH22952653334850S  
Certificate Issued Date : 27-May-2020 10:43 AM  
Certificate Issued By : chsanjkui  
Account Reference : IMPACC (GV)/ chimpsp07/ E-SMP MANIMAJRA/ CH-CH  
Unique Doc. Reference : SUBIN-CHCHIMPSP0745855477053840S  
Purchased by : A K BANSAL  
Description of Document : Article 12 Award  
Property Description : 6433 CHAMPU ON GRAND VIEW BUILDING 1 AUSTIN TEX AS USA  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : INDEED INC  
Second Party : ANKUR SHRIVASTAV  
Stamp Duty Paid By : INDEED INC  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



-----Please write or type below this line-----

### ARBITRATION AWARD

(On Stamp Paper)

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SR 0011414326

#### Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



**INDRP ARBITRATION  
THE NATIONAL INTERNET EXCHANGE OF INDIA  
[NIXI]**

**ARBITRAL TRIBUNAL CONSISTING OF  
SOLE ARBITRATOR:  
DR. ASHWINIE KUMAR BANSAL, L.L.B; PH.D.  
Advocate, Punjab & Haryana High Court, Chandigarh**

Indeed, Inc., 6433 Champion Grandview Way, Building 1, Austin,  
Texas 78750, United States of America.

**...(Complainant)**

Versus

Ankur Shrivastav, Study, Ghaziabad, Delhi-110092, India.

**...(Respondent)**

**COMPLAINT REGARDING: DISPUTED DOMAIN NAME:**  
**<INDEEDGROUP.IN>**

**1. The Parties:**

**Complainant:** Indeed, Inc., 6433 Champion Grandview Way,  
Building 1, Austin, Texas 78750, United States of America, E-mail:  
[ipr@archerangel.com](mailto:ipr@archerangel.com), [schhabra@archerangel.com](mailto:schhabra@archerangel.com),  
[btamuly@archerangel.com](mailto:btamuly@archerangel.com).

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**Respondent:**

Ankur Shrivastav, Study, Ghaziabad, Delhi-110092, India, e-mail:  
jobsweg1@gmail.com

2. **The Domain Name and the Registrar:** The disputed domain name <indeedgroup.in> is registered with Godaddy.com, LLC, 14455 N Hayden Rd Ste 226, Scottsdale, AZ 85260-6993, e-mail: udrpdiscutes@godaddy.com (the "Registrar").

3. **Procedural History [Arbitration Proceedings]**

The Complaint has been filed with the National Internet Exchange of India (NIXI) which appointed Dr. Ashwinie Kumar Bansal, Advocate, as the sole Arbitrator in this matter. The Arbitrator has already submitted his Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI.

NIXI informed the parties about appointment of arbitrator vide its E-mail dated 05.03.2020 and also sent soft copy of the Complaint along with annexures by e-mail on 05.03.2020 to the Respondent. The e-mail was duly delivered to him as per confirmation by NIXI vide e-mail dated 04.05.2020. NIXI had also sent hard copy of the Complaint along with annexures to him by courier. However, NIXI

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informed vide its e-mail dated 04.05.2020 that the Respondent had refused to accept the courier.

The Arbitrator vide email dated 11.03.2020 directed the Respondent to file his reply within 10 days and the e-mail was duly delivered as there was no report of non-delivery. The arbitrator again vide e-mail dated 04.05.2020 directed the Respondent to file his reply and the e-mail was duly delivered as there was no report of non-delivery.

The Respondent has been duly served with a copy of Complaint and Annexures by e-mail as well as by courier. The arbitrator has sent notice vide two e-mails to the Respondent which were duly served as there is no report for non-delivery of e-mails. Hence, service of the Respondent is complete.

The Respondent has failed to file any response to the Complaint till date although period for filing of response has already expired. As per section 25 of the Arbitration and Conciliation Act, 1996 the arbitrator is competent to make the award if Respondent fails to file the reply before him. In view of above, arbitrator proceeds to make the award in accordance with provisions of the rules read with section 25 of the Arbitration and Conciliation Act, 1996.

#### **4. Factual Background**

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The Complainant, Indeed, Inc., provides job site in 28 languages, with over 250 million unique visitors every month from over 60 different countries. Indeed, Inc, owns and has used its corporate website [www.indeed.com](http://www.indeed.com) as an employment related search engine since at least the year 2004, and continues to do so. With specific reference to India, the Complainant has ensured significant presence of its brand and trademark "INDEED" in the market through various promotional and advertising activities.

The Respondent has registered the disputed domain name <indeedgroup.in> on 04.12.2019 wholly incorporating Trademark "INDEED" of the Complainant. Hence, present Complaint has been filed by the Complainant against the Respondent.

## **5. Parties Contentions**

### **A. Complainant**

The Complainant, Indeed, Inc., provides job site in 28 languages, with over 250 million unique visitors every month from over 60 different countries. Indeed owns and has used its corporate website [www.indeed.com](http://www.indeed.com) as an employment related search engine since at least the year 2004, and continues to do so. With specific reference to India, the Complainant has ensured significant presence of its

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brand and trademark "INDEED" in the market through various promotional and advertising activities.

Indeed owns and has used the brand and trademark "INDEED" and variations thereof for over a decade in relation to its highly successful job websites and search engines, as well as related goods and services such as mobile applications and online advertising services.

The "INDEED" Marks are a distinctive identifier associated with the Complainant and its services and goods. In addition to its extensive common law rights, the Complainant owns trademark registrations for the "INDEED" Marks in different countries worldwide. The Complainant's trademark registrations are duly renewed, valid and subsisting.

The Complainant owns the domain name <indeed.com> and operates its corresponding primary website at [www.indeed.com](http://www.indeed.com), through which it conducts a significant portion of its business. As is evident, the Complainant's domain name in its entirety incorporates its registered trademark "INDEED", thus further augmenting its proprietary rights in the said mark.

The aforementioned domain name <indeed.com>, as evident, is based on the corporate name of the Complainant's company, Indeed, Inc., and was created / registered on and has been regularly renewed since March 30, 1998. By virtue of the said

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domain's association with the Complainant for over two decades now, it has become synonymous with the Complainant and its business.

The Complainant is also the owner of the India specific domain <indeed.co.in>, which was created / registered on and has been regularly renewed since December 14, 2006. As a result of and to leverage its internet-based business model, the Complainant has also set up several other dedicated country-specific domain names and websites in major markets such as Canada <indeed.ca>, Columbia <indeed.com.co>, France <indeed.fr>, etc. through which it lists specific job opportunities in these markets. The Complainant is also the owner of several other domain names containing its registered trademark "INDEED" viz. <indeed.net>, <indeed.online>, <indeed.org>, <indeed.career> and <indeed.jobs>.

The Complainant has further submitted that the Disputed Domain Name is identical with and/or confusingly similar to the Complainant's "INDEED" Marks. The Disputed Domain Name incorporates the Complainant's registered trademark "INDEED" in its entirety along with the descriptive and non-distinctive word 'group' as a suffix, which are insufficient for differentiation.

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The Complainant has well-established rights in respect of the "INDEED" Marks which have been recognized and confirmed by NIXI (National Internet Exchange of India) in various cases.

The Complainant has submitted that the Disputed Domain Name comprises the Complainant's registered trademark "INDEED" in its entirety. The addition of the word 'group' as a suffix to the Complainant's registered trademark "INDEED" is incapable of lending the Disputed Domain Name any distinctiveness or reduces its similarity with the Complainant's "INDEED" Marks and on the contrary, enhances the degree of similarity between the rival brands. The word 'group' simply indicates a collective association of people who, in the present context, are looking for job services being offered by the Respondent-which are identical to those offered by the Complainant under the "INDEED" Marks around the world, including in India. The Complainant is known globally as an employment / job search engine since early 2000s and hence use of the Disputed Domain Name will, in all likelihood, make internet users believe that it originates from the Complainant, when that is not the case. In this regard, complainant has submitted that a mere search for the words contained in the Disputed Domain Name, i.e. 'INDEED GROUP', on the popular search engine like Google.com leads to the Complainant's genuine websites. This result establishes

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beyond doubt that the two concerned words are associated with the Complainant alone and none else.

The Complainant has also submitted that the Respondent has not used, nor made any demonstrable preparations to use, the Disputed Domain Name in connection with a bonafide offering of services or goods. It has been submitted that the Respondent's use of the Disputed Domain Name is for fraudulent purposes, namely, to imitate a legitimate, well-reputed and trustworthy entity, i.e. the Complainant, so as to deceive job seekers into purchasing services that are never provided - which in no manner constitutes a bonafide offering of services or goods.

To the Complainant's knowledge, the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed Domain Name.

The Complainant has submitted that the Respondent neither has rights nor legitimate interests in the Disputed Domain Name nor has the Complainant assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of its registered trademark "INDEED". The inclusion of the word "INDEED" (registered trademark of the Complainant) and 'group' (a mere descriptive, and hence inconsequential word) in the Disputed Domain Name, amply reflects that the intention of the Respondent

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is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent and cash-in on such deception.

The Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. In fact, it is apparent that use of the Disputed Domain Name by the Respondent is an attempt to pass itself off as the Complainant in furtherance of a possible phishing scheme. Use of the Disputed Domain Name in this manner can neither be termed as a bonafide offering of services or goods and nor as a legitimate non-commercial or fair use. It is clear that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumers and/or tarnishing the Complainant's brand and "INDEED" Marks, and therefore also the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The Complainant enjoys exclusive rights in the trademark "INDEED" qua its specific services and products. The word "INDEED" per se, when considered along with its descriptive / dictionary meaning (as an adverb) does not indicate in any manner services or goods relating to the employment industry and accordingly the Complainant's registered trademark "INDEED" in Classes 42, 35 and 09 is an inherently distinctive trademark.

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In summary, there is no justification for the Respondent's registration and/or use of the Disputed Domain Name. By virtue of a dishonest adoption and malafide intent of the Respondent, together with its brazen usage of the Complainant's "INDEED" Marks, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.

The Complainant is vested with worldwide statutory and common law rights in its "INDEED" Marks since the year 2004. In such circumstances, the Respondent's usage of the Complainant's trade name and mark "INDEED" in conjunction with the descriptive and non-distinctive term 'group', is of concern as it is fraught with the likelihood of creating confusion in the minds of public at large. It is highly probable that consumers looking for the Complainant's "INDEED" branded services may perceive the Disputed Domain Name to be another domain name of the Complainant for providing jobs. This misconception is highly likely to be amplified when such unwary consumers would receive fraudulent communications from the Respondent which would prominently bear the disputed name "INDEED" with or without any prefix / suffix - the collective use of which would lull such consumers into a false sense of security, leading to the incorrect assumption that the Respondent's communication and job postings are genuine and originating from

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the Complainant itself. The Complainant has submitted that this sort of scenario that the Respondent is seeking to create is in itself evidence of its bad-faith and malafide intentions.

The Complainant has acquired significant reputation and substantial goodwill in the employment industry since 2004 and the Respondent, being in an identical industry and dealing with same or similar services, is bound to have knowledge of the world-renowned repute of the Complainant herein. Hence, it has no cause of adoption of an identical trademark or domain name, except in bad faith and with malafide intention. Moreover, the Disputed Domain Name was registered in December 2019, i.e. post 9 years of filing of trademark applications by the Complainant in India for registration of its "INDEED" Marks and 15 years of the Complainant actually using its said Marks in commerce. The Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its business - and by extension, its "INDEED" Marks- since no level of coincidence can lead to the Respondent adopting a name / trademark so close to the Complainant's much prior adopted, used and registered "INDEED" Marks. In the present case, at the time of registration of the Disputed Domain Name <indeedgroup.in>, the Complainant had been known by its business / corporate / trade name "INDEED" for much over a decade and had already enforced its rights against several infringers. Even so, the Respondent chose

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to register the Disputed Domain Name so as to misappropriate the Complainant's "INDEED" Marks in an unauthorised manner.

The Respondent appears to be using the Disputed Domain Name for the purpose of misleading and extracting illegal benefits from innocent job seekers by posting fake job vacancies, who will be led to believe the Respondent to be the Complainant or at least affiliated with it. The Respondent's bad-faith intentions due to use of the Disputed Domain Name are thus lent further credence.

Even if the Respondent were offering actual recruiting services through the Disputed Domain Name, such use would still support a finding of bad faith use and registration, as these are the same services offered by the Complainant under its famous and registered "INDEED" Marks.

### **Respondent**

The Respondent has not filed the Response to the Complaint in spite of opportunity given to him.

### **6. Discussion and Findings:-**

As per Paragraph 11 of the INDRP Rules of Procedure where a Respondent does not submit a response, in the absence of exceptional circumstances, the Arbitrator may decide the Complaint in accordance with law. The Arbitrator does not find any

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exceptional circumstances in this case preventing him from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response.

It remains incumbent on the Complainant to make out its case in all respects under Paragraph 4 of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

"4. Types of Disputes

Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (i) the Registrant's domain name is identical or confusingly similar to a name, Trademark or service mark in which the Complainant has rights;
- (ii) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (iii) the Registrant's domain name has been registered or is being used in bad faith.

The Registrant is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a Complaint to the .IN Registry, in compliance with this Policy and Rules thereunder."

The Arbitrator has examined the Complaint and documents filed by the Complainant and he will address the three aspects of the Policy listed above.

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### **A. Identical or Confusingly Similar**

The Complainant has been using the trademark "INDEED" since 29.11.2004 and the application for registration of the trademark was filed by him on 27.10.2010. The Complainant has produced trademark certificates for registration of its Trademark "INDEED" issued by various authorities along with the Complaint which demonstrates its trademark rights in the Trademark "INDEED". The Trademark of the Complainant has become associated by the general public exclusively with the Complainant. The Complainant also has domain name registration <indeed.com> incorporating its Trademark "INDEED" which leads to website containing information on the various products of "INDEED". The disputed domain name was registered by the Respondent on 04.12.2019, which wholly incorporates Trademark "INDEED" of the Complainant. In the INDRP order *Indeed, Inc. v. Indeedworld* <indeedworld.in> (INDRP/931) passed in January 2018, it has been held as under:

"... it is well settled proposition that when the relevant trademark is recognizable within the disputed domain name, the addition of any generic or common language term would not prevent a finding of confusing similarity under the first element of UDRP Policy".

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The Arbitrator finds that the registration of the Trademark is *prima facie* evidence of the Complainant's Trademark rights for the purposes of the Policy<sup>1</sup>. Internet users who enter the disputed domain name <indeedgroup.in> being aware of the reputation of the Complainant may be confused about its association or affiliation with the Complainant.

The Respondent has registered the disputed domain name <indeedgroup.in> incorporating the Trademark "INDEED" of the Complainant, which the Arbitrator finds is sufficient to establish confusing similarity for the purpose of the Policy.

The Arbitrator finds that the disputed domain name <indeedgroup.in> is confusingly similar to Trademark "INDEED" of the Complainant.

## **B. Rights or Legitimate Interests**

The Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed

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<sup>1</sup> See *State Farm Mutual Automobile Insurance Company v. Periasami Malain*, NAF Claim No. 0705262 ("Complainant's registrations with the United States Patent and Trademark Office of the trademark STATE FARM establishes its rights in the STATE FARM mark pursuant to Policy, paragraph 4(a)(i)."); see also *Mothers Against Drunk Driving v. phix*, NAF Claim No. 0174052 (finding that the Complainant's registration of the MADD mark with the United States Patent and Trademark Office establishes the Complainant's rights in the mark for purposes of Policy, paragraph 4(a)(i)).

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domain name. Nevertheless, it is well settled that the Complainant needs only to make out a *prima facie* case, after which the burden of proof shifts to the Respondent to rebut such *prima facie* case by demonstrating rights or legitimate interests in the domain name<sup>2</sup>. The Respondent has registered the disputed domain name consisting of the Trademark owned by the Complainant. The Complainant has been using the Trademark "INDEED" since very long. The Complainant has not authorized or permitted the Respondent to use the Trademark "INDEED".

The Respondent has not filed a Response to rebut the Complainant's *prima facie* case and the Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name <indeedgroup.in> as per Paragraph 7 of the Policy.

The Respondent has no right to and legitimate interest in the disputed domain name. The Respondent illegally and wrongfully adopted the Trademark "INDEED" of the Complainant with the intention to create an impression of an association with the Complainant. The Arbitrator finds that the Complainant has made out a *prima facie* case. Based on the facts as stated above, the Arbitrator finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name

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<sup>2</sup> See *Hanna-Barbera Productions, Inc. v. Entertainment Commentaries*, NAF Claim No. 0741828; *AOL LLC v. Jordan Gerberg*, NAF Claim No. 0780200.

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<indeedgroup.in>.

### **C. Registered and Used in Bad Faith**

Paragraph 6 of the Policy identifies, in particular but without limitation, three circumstances which, if found by the Arbitrator to be present, shall be evidence of the registration and use of the Domain Name in bad faith. Paragraph 6 of the Policy is reproduced below:

#### ***"6. Evidence of Registration and use of Domain Name in Bad Faith***

For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the Trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or
- (ii) the Registrant has registered the domain name in order to prevent the owner of the Trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or

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location.”

Each of the three circumstances in Paragraph 6 of the Policy (which are non-exclusive), if found, is evidence of “registration and use of a domain name in bad faith”. Circumstances (i) and (ii) are concerned with the intention or purpose of the registration of the domain name, and circumstance (iii) is concerned with an act of use of the domain name. The Complainant is required to prove that the registration was undertaken in bad faith and that the circumstances of the case are such that the Respondent is continuing to act in bad faith.

The Respondent has registered the Disputed Domain Name and using the same for website at <www.indeedgroup.in> for offering online career search and recruitment services identical to those of the Complainant. Extracts from the website <www.indeedgroup.in> have been filed along with complaint.

The Respondent has registered domain name <indeedgroup.in> with the .IN Registry incorporating the Complainant's well-known, prior used and registered Trademark “INDEED”. The disputed domain name is similar to the prior registered trademark “INDEED” as well as domain of the Complainant i.e. <indeed.com>. There can be no plausible explanation for the registration and use of

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trademark "INDEED" of the Complainant in the disputed domain name <indeedgroup.in> by the Respondent.

The disputed domain name <indeedgroup.in> has been created by the Respondent recently on 04.12.2019. The Respondent thus has deliberately acquired a similar name in which the Complainant has substantial interest being its registered Trademark. The Respondent is presumed to have constructive notice of the commercial value and significance of the Trademark "INDEED" which forms a conspicuous part of the disputed domain name.

The Respondent has registered the disputed domain name <indeedgroup.in> in bad faith, which will diminish the strength and the distinctive value of the trademark "INDEED" resulting in its dilution and tarnishment.

The Complainant has not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainant's registered Trademark "INDEED" in any manner. The disputed domain name clearly incorporates the Complainant's Trademark "INDEED" in its entirety. Such unauthorized registration of the domain name by the Respondent incorporating the Trademark of the Complainant suggests opportunistic bad faith. The Respondent's true intention and purpose of the registration of the disputed domain name <indeedgroup.in> which incorporates the Trademark "INDEED" of the Complainant is, in this Arbitrator's

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view, to capitalize on the reputation of the Trademark of the Complainant.

The Arbitrator therefore finds that the disputed domain name <indeedgroup.in> has been registered by the Respondent in bad faith.

The Trademark "INDEED" has been a well-known name. The domain disputed name <indeedgroup.in> is confusingly similar to the Complainant's Trademark "INDEED", and the Respondent has no rights or legitimate interests in respect of the domain name, and he has registered and used the domain name <indeedgroup.in> in bad faith. These facts entitle the Complainant to an award transferring the domain name <indeedgroup.in> from the Respondent.

The Arbitrator allows the Complaint and directs that the Respondent's domain name <indeedgroup.in> be transferred in favour of the Complainant.

## **7. Decision**

Keeping in view all the facts and circumstances of the matter this Complaint is allowed. The disputed domain name <indeedgroup.in> is similar to the Trademark "INDEED" in which the Complainant has rights. The Arbitrator orders in accordance with the Policy and the Rules, that the domain name <indeedgroup.in> be transferred to the Complainant.

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The award has been made and signed at Chandigarh on the date given below.

Place: Chandigarh

Dated: 28.05.2020



**Dr. Ashwinie Kumar Bansal**  
**Sole Arbitrator**

Advocate, Punjab and Haryana High Court  
Arbitration House 6, Shivalik Enclave, NAC,  
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