

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Arb.P.(J2) No. 3 of 2024

M/S Sanmati Traders

Petitioner/s

Vrs.

State of Manipur & anr.

Respondent/s

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
(ORDER)**

11.12.2025

[1] In captioned arbitration petition, in the hearing today, Mr. Albert Keisham, learned counsel on record for the sole petitioner is before this Court (Physical Court). As regards the two respondents (collectively 'State' for the sake of convenience and clarity), Mr. M. Rarry, learned senior advocate instructed by learned State counsel on record Ms. M. Nikita, is before this Court on the Video Conferencing (V.C.) platform.

[2] Captioned arbitration petition was taken up and heard out.

[3] This order shall now be read in conjunction with and in continuation of earlier proceedings made in the listing on 10.11.2025 which reads as follows:

'10.11.2025

Captioned arbitration petition has been filed under Section 11 of 'the Arbitration and Conciliation Act, 1996 (26 of 1996)' (hereinafter 'A&C Act' for the sake of brevity & convenience).

Today Mr. H. Kenajit, learned counsel for petitioner and Ms. M. Nikita, learned counsel for the two respondents (collectively 'State' for convenience) are before this Court.

From the case file and from the facts supplied by both sides, it comes to light that the captioned matter has a chequered history. This court notices that from the case file and facts supplied by learned counsel on both sides calendrical progression of the matter emerges and the same captured and set out in the form of a tabulation is as follows:

Sl. No.	Date	Events	Remarks
1.	25.07.2021	State(Buyer) opened a Bid bearing reference GEM/2021/B/1382494 for supply, installation and commissioning of 860 nos. of Desktops, 860 nos. of All-in-one Desktops and 1720 nos. of UPS systems.	-
2.	26.10.2021	Supply order said to have been issued by State (Buyer) to petitioner (Supplier){according to petitioner (Supplier)}.	Copy not placed before this Court by the petitioner (Supplier).
3.	19.04.2022	Surprise inspection by a vigilance team in the warehouse of State (Buyer) in the circuit house.	According to petitioner(Supplier), R1 office telephonically informed the petitioner(Supplier) to stop further supply.
4.		Petitioner (Supplier) contends that a letter requesting for continuing supply was sent	Neither a copy is made available by the petitioner (Supplier) nor is the date available.
5.	30.07.2022	Show cause notice issued by R2 to petitioner(Supplier) (calling upon petitioner(Supplier) to show-cause as to why supply order should not be foreclosed).	Copy not enclosed by the petitioner (Supplier)
6.	04.08.2022	Petitioner's (Supplier's) preliminary reply to SCN	Copy not placed before this Court
7.	30.08.2022	Petitioner's main/final reply to SCN	Copy not placed before this Court.
8.	10.01.2024	State (Buyer) issued a letter cancelling the supply order	Copy not placed before this Court.
9.	09.02.2024	A letter from the petitioner(Supplier) pertaining to second part of DRC(Dispute Resolution Clause) requesting for constitution of coordination committee qua dispute whenever arises.	State(Buyer) acknowledgment dated 09.02.2024 is available but there is obvious error in the date of this letter as the date is shown as 30.03.2024. It is not clear if parties made a reasonable endeavor to settle the dispute amicably which is the first part of DRC.

10.	10.03.2024	30 days from the date of receipt of the above letter by State ((Buyer) elapsed.	
11.	01.04.2024	A trigger letter from the petitioner (Supplier) triggering the third part of DRC (arbitration) received by State(Buyer).	Acknowledgment of State(Buyer) is available but here again there appears to be an error in the date of the letter as the same has been received by State (buyer) on 01.04.2024 whereas the letter is dated 09.01.2024 which is prior to 09.07.2024 which is date of receipt of letter by State (Buyer) requesting constitution of co ordination committee but 30 days from 09.01.2024 had lapsed on 30.03.2024.
12.	25.06.2024	Captioned arbitration petition filed in this Court.	
13.	26.09.2024	Predecessor Bench disposed of the captioned arbitration petition appointing a former Hon'ble High Court Judge as sole arbitrator.	To be noted, this order records that both sides agreed for such a course. Further to be noted, the arbitration clause provides for nomination of an arbitrator by primary buyer with a rider that the arbitrator can be a government servant.
14.	05.11.2024	State (Buyer) appointed Co-ordination Committee	-
15.	25.11.2024	State (Buyer) filed a review petition being Review.Pet.(J2) No. 2 of 2024 inter alia stating that the State counsel did not agree for appointment of an independent arbitrator i.e., former Hon'ble High Court Judge.	-
16.	19.12.2024	Review Petition allowed by Predecessor Bench	-
17.	02.01.2025	State (Buyer) cancelled 05.11.2024 communication appointing Co-ordination Committee	
18.	03.01.2025	Co-ordination Committee appointed afresh.	

Reverting to the narrative, this Court is informed that the parties namely the petitioner(Supplier) and State(Buyer) are governed by 'General Terms And Conditions on GeM 3.0(Versio 1.10)' (hereinafter 'GtC' for the sake of convenience and clarity).

Clause 16 of the GtC is the DRC and it is captioned 'Dispute Resolution Between Buyer and Seller'. The afore-referred DRC serves as an arbitration clause between buyer and seller being 'arbitration clause' within the meaning of Section 2(1) (b) read with Section 7 of the A&C Act.

The arbitration clause/agreement provides for 30 days written notice requesting for constitution of what is known as coordination committee which is a resolution mechanism after reasonable endeavor of parties to settle the dispute amicably.

In the case on hand, according to petitioner(Supplier), a written notice qua this second part of DRC was received by State(buyer) on 09.02.2024, 30 days elapsed on 10.03.2024 but no coordination committee was constituted and that led to trigger notice which was received by State(Buyer) on 01.04.2024.

In the above said scenario, Mr. M. Rarry, learned senior counsel appearing on behalf of Ms. M. Nikika, learned State counsel, submits on instructions that the State counsel has filed an affidavit-in-opposition with annexures but the same is not before this Court.

Let the Registry put up the affidavit-in-opposition along with the annexures.

List on 20.11.2025.'

[4] The afore-referred 10.11.2025 proceedings shall now be read as an integral part and parcel of instant order. This also means that the short forms, abbreviations and short references used in the afore-referred 10.11.2025 proceedings shall continue to be used in the instant order also.

[5] Afore-referred 10.11.2025 proceedings captures and sets out the crux and gravamen of the captioned matter containing essential facts imperative for appreciating instant order . Therefore, this Court deems it appropriate to not to dilate more qua facts.

[6] As regards the 10.11.2025 proceedings, learned counsel for petitioner, learned State Counsel and learned senior counsel appearing on behalf of the learned State counsel, submit in one voice that the facts as well as the trajectory the matter has taken thus far has been correctly captured and the only correction is with regard to Sl. No.2 in the tabulation therein. The supply order issued by State (buyer) is dated 16.10.2021. Both sides regret for the error in appraising this Court on facts as the same has been recorded as 26.10.2021. This means that instant order will serve as an errata/corrigendum with regard to Sl. No.2 in the tabulation in the 10.11.2025 proceedings and the date thereat being column No.2 in the Y-axis will now read as 16.10.2021 instead of 26.10.2021.

[7] At the outset, this Court respectfully reminds itself that a 7(seven) member Bench of the Hon'ble Supreme Court in **Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In re** reported in **(2024) 6 SCC 1** has declared the law that A&C Act is a self-contained code as it provides for a complete machinery to deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimum. This declaration of law was made by reiterating an earlier declaration of law made by a Constitution Bench of Hon'ble Supreme Court in **Girnar Traders vs. State of Maharashtra and others** reported in **(2011) 3 SCC 1**.

[8] In **Re-Interplay**, Hon'ble Supreme Court made it clear that a legal drill under Section 11 of A&C Act should be confined to and should perambulate within a limited statutory perimeter vide sub-Section (6A) of Section 11. In this regard, it was made clear that **Vidya Drolia v. Durga Trading Corporation** reported in **(2021) 2 SCC 1** is erroneous to the extent that it did not notice that

sub-Section (6A) of Section 11 has not been deleted and thereafter, it was made clear that the expression '*examination of the existence of an arbitration agreement*' occurring in sub-Section (6A) does not connote or imply a laborious or contested inquiry and that it is limited to ascertaining/examining the prima facie existence of an arbitration agreement. Therefore, the instant legal drill at hand will be confined to this statutory perimeter being declaration of law made by Hon'ble Supreme Court in **Interplay**. In the case on hand, existence of arbitration agreement is not in dispute. Clause-16 of the GtC is admittedly the dispute resolution Clause between State(buyer) and the petitioner(seller) and this clause serves as arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of A&C Act. To be noted, as already set out in earlier proceedings dated 10.11.2025, GtC is a reference to General Terms and Conditions on GeM 3.0(Versión 1.10). This Clause-16 reads as follows:

*'16. Dispute Resolution Between Buyer and Seller:
AMICABLE SETTLEMENT:*

In the event of any question, dispute or difference arising connection with the Contract, the Parties shall use their respective reasonable endeavour to settle any dispute amicably. If a Dispute is not resolved within 30 days after written notice of any dispute by one Party to the other, the same shall be resolved through the mechanism of a co-ordination committee to be formed by the Buyer and Seller/Service Provider and to be chaired by the Primary User of Buyer Organization/Department along with representatives from Buyer Department and Seller.

ARBITRATION:

In the event of any question, dispute or difference arising under the terms and conditions of the contract placed through GeM, the same shall be referred to the sole arbitration by an officer nominated as Arbitrator by the Primary Buyer of the concerned Buyer Organization. It will be no objection that the arbitrator is a Government Servant and that he had to deal with the matters to which the contract relates or that in the course of his duties as a Government servant he has expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to the contract. The arbitration shall be governed as per Indian Arbitration and Conciliation Act 1996 as amended up to date.

The place for arbitration shall be at the place from where contract has been placed by the Buyer or at the place of Primary Buyer as decided by the Primary Buyer.

In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the Primary Buyer to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.

In respect of all contract placed through GeM, the dispute would not be referred or entertained by Micro and Small Enterprise Facilitation Council, Consumer Forum or any other adjudication forum.

All disputes in connection with the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction, the place from where Contract was issued is situated GeM SPV would not be a party to any such dispute/matter.'

[9] As the existence of arbitration agreement (Clause-16 of GtC) is not in dispute, that case will be the end of legal drill at hand but owing to the trajectory the matter has taken thus far, this Court deems it appropriate to discuss and give its dispositive reasoning qua 2(two) issues raised by learned senior counsel for State. First issue is, learned senior counsel for State contended that the arbitration agreement is a tiered agreement which provides for endeavor to amicable settlement of dispute and in the event of failure of the same, it should be followed by resolution through a mechanism of a coordination committee to be formed by the State (buyer) and in the event of the resolution through coordination committee mechanism also failing, arbitration should be resorted to.

[10] In the considered view of this Court, the afore-referred first contention is clearly a non-starter as a plain perusal of Clause-16 i.e., arbitration clause makes it clear that it provides for dispute resolution for 2(two) different kinds of contracts, one is resolution of questions, dispute or differences arising under terms and conditions of a contract simpliciter between State (buyer) and a supplier, while the other is resolution of questions of, disputes or differences arising under terms and

conditions of a contract placed through GeM. This Court, for the sake of abundant clarity and specificity makes it clear that one is a contract which is entered into by the State with another party dehors GeM portal and another is a contract placed through GeM. While it is tiered for former it is not tiered and arbitration straightaway for the latter. In the case on hand, it is clear as daylight and there is no disputation or contestation that we are concerned with a contract placed through GeM.

[11] Reverting to Clause-16 providing for dispute resolution for 2(two) kinds of contracts, the first part of Clause-16 makes it clear that contracts simpliciter i.e., contracts dehors GeM are those where question, dispute or differences arising from such contracts shall first be endeavored to be settled amicably and if that fails, the mechanism of a coordination committee to be formed by State (buyer) will be resorted to followed by arbitration by sole arbitrator. A completely different dispute resolution has been provided for contracts placed through GeM(contract qua case at hand). This is any question, dispute or difference arising from such contracts placed through GeM, shall straightaway be referred to arbitration by a sole arbitrator. This leads this Section 11 Court to the indisputable obtaining position about the existence of an arbitration agreement providing for arbitration by a sole arbitrator for the contract at hand.

[12] Before proceeding further, this Court makes it clear that even on a demurrer, the question as to whether an arbitration agreement provides for tiered arbitration (if there is any doubt) will be outside the legal perimeter within which a Section 11 legal drill should perambulate. To be noted, there is allusion about this supra by respectfully placing reliance on **Interplay** where it was made clear that the expression 'examination' occurring in sub-Section (6A) of Section 11 does not

connote or imply a laborious or contested inquiry as Section 16 provides for arbitral tribunal to rule on its jurisdiction including existence and validity of an arbitration agreement. It was also made clear that a Section 11 Court (Referral Court) is only required to examine the existence of arbitration agreements whereas arbitral tribunal ought to rule on its jurisdiction including issues pertaining to validity of an arbitration agreement. Be that as it may, this paragraph of the order has been written only for abundant clarity and for the sake of specificity as in the case on hand, as already alluded to supra, it is clear as daylight that as regards contracts placed through GeM, the dispute resolution Clause provides for arbitration by a sole arbitrator and there is no disputation that we are concerned with a contract placed through GeM.

[13] This takes this Court to the second issue raised by learned senior counsel appearing on behalf of learned State counsel. Learned senior counsel contended that the sole arbitrator shall be appointed by the State (buyer) and that there will be no objection if the arbitrator is a Government servant or for that matter there can be no objection even if this Government servant had dealt with matters to which the contract relates or if in the course of his duties as a Government servant, he has expressed views on all or any of the major disputes or differences. This argument neither weighs with this Court nor impresses this referral Court as it is contrary to the obtaining position of law. To be noted, the obtaining legal position is, when only one party has a right to appoint a sole arbitrator, such a choice will always have an element of exclusivity in determining or charting the course of dispute resolution and therefore, such an appointment cannot be made as it mars the independence and impartiality of the arbitrator. This principle was laid down by

Hon'ble Supreme Court vide **Perkins Eastman Architects DPC and another vs. HSCC (India) Limited** reported in **(2020) 20 SCC 760** To be noted, **Perkins** also reiterated **TRF Limited vs. Energo Engineering Projects Limited** reported in **(2017) 8 SCC 377** which made it clear that once an arbitrator becomes ineligible by operation of law, he cannot nominate another arbitrator. Thereafter, a Constitution Bench of Hon'ble Supreme Court in **Central Organisation for Railway Electrification (CORE II) vs. ECI-SPIC-SMO-MCML (JV)** reported in **(2025) 4 SCC 641** adverted to the question of appointment of an arbitrator from a panel of potential arbitrators maintained by Public Sector Undertakings (PSUs) and made it clear that arbitration clause that allows one party to unilaterally appoint a sole arbitrator gives rise to justifiable doubts as to the independence and impartiality of the arbitrator and that such unilateral clauses are exclusive and they hinder equal participation of the other party in the appointment process of arbitrators. It may not be necessary to dilate further and delve into **CORE II** as we are not concerned with the case where the arbitration clause provides for appointment of an arbitrator from a panel of potential arbitrators maintained by State. This is a case of unilateral appointment of a sole arbitrator by one of parties i.e., State. However, this Section 11 referral Court has respectfully adverted to **Core II** as **Core II** specifically reiterates **TRF** and **Perkins** principles. In **Voestalpine Schienen GmbH v. Delhi Metro Rail Corporation Ltd** reported in **(2017) 4 SCC 665**, the question as to whether a panel of arbitrators prepared by a State entities/instrumentalities of the State qua Section 12 of the A&C Act arose and it was held that the situation can be remedied if a choice is given to both parties to nominate any person from the panel. Thereafter, in **Central Organisation for Railway Electrification (CORE I) vs.**

ECI-SPIC-SMO-MCML (JV) reported in **(2020) 14 SCC 712** the question as to whether retired railway officers being appointed as arbitrators is valid in the light of Section 12(5) and relying on **Voestalpine** it was held that there is no bar for former employees being appointed as arbitrators. In **CORE II**, a 7 member Bench of Hon'ble Supreme Court made it clear that it disagrees with **Voestalpine, CORE I** and it resurrected **TRF** and **Perkins**. In the light of the narrative thus far, it is clear that existence of arbitration agreement is clear as daylight but unilateral appointment of sole arbitrator by State(buyer) cannot be permitted in the light of **Perkins** and **TRF** principles.

[14] As would be evident from the calendrical progression the matter has taken thus far, to put it differently, the trajectory the matter has taken thus far, Review.Pet.(J2) No. 2 of 2024 filed by State being allowed by this Hon'ble Court(Predecessor Hon'ble Single Bench) does not come in the way as the review petition was allowed on the sole ground that in the earlier round, State Counsel did not agree for appointment of an independent arbitrator. In this regard, this Section 11 referral Court reminds itself of the oft quoted **R.S Nayak (Ramdas Srinivas Nayak)** case law {**State of Maharashtra Vs. Ramdas Srinivas Nayak** reported in **(1982) 2 SCC 463**} which made it clear that if a party thinks that happenings in Court have been wrongly recorded in a judgment, it is incumbent upon such party to call the attention of the very same Hon'ble Court which made the record when it is still fresh in the minds of the Court and have the same corrected. Therefore, though the review petition was allowed by successor Hon'ble Chief Justice on 19.12.2024 is only a correction as regards the position that learned State counsel did not consent or agree for appointment of an independent arbitrator has been

made. To put it differently, it only means that learned State counsel is contending that the State can make unilateral appointment and in any event Section 11 legal drill has been left open vide review order. Both parties have accepted the review order and are now arguing the captioned arbitration petition pursuant to review order. To be noted, in the instant legal drill also, learned senior counsel for State has contended that as per the arbitration clause the State can make unilateral appointment of sole arbitrator but this Court by respectfully following **Perkins** and **TRF** principles as reiterated in **CORE II**, has negated the contention.

[15] To conclude and as a matter of summation, this referral Court deems it appropriate to write that it would be clear from the narrative, discussion and dispositive reasoning thus far that both the grounds on which the captioned arbitration petition under Section 11 of A&C Act was resisted by the learned State counsel have been negated and therefore, this Court proceeds to appoint sole arbitrator.

[16] Before making appointment of sole arbitrator, for the sake of abundant clarity and specificity this Court deems it appropriate to extract and reproduce the order dated 26.09.2024 made by one Hon'ble predecessor Chief Justice in Arb.P.(J2) No. 3 of 2024 and order dated 19.12.2024 made by another Hon'ble predecessor Chief Justice in the Review.Pet.(J2) No. 2 of 2024 which read as follows:

'26.09.2024

Mr. H. Kenajit, learned counsel, appears on behalf of the petitioners and Mr. S. Nepolean, learned GA, appears on behalf of the State of Manipur.

The present arbitration petition under Sub-Section (6) of Section 11 read with Section 15 of the Arbitration and Conciliation Act, 1996

(hereinafter the Act) has been instituted on behalf of Mr. Manoj Kumar Patni, the sole Proprietor of M/s. Sanmati Traders (the petitioner) praying as follows:

"8. That, in the premises stated above, it is therefore, prayed that Your Lordship may graciously be pleased:-

- i) to admit this arbitration petition;*
- ii) to appoint an Arbitrator for the purpose of adjudicating the claims and disputes between the petitioner and the respondents with regard to Contract No. GEMC-511687720476612 dated 16.10.2021;*
- iii) to pass such other orders as this Hon'ble Court may deem fit in the interest of justice, equity and good conscience"*

It is an admitted position that the State of Manipur (respondent) through the Secretary (GAD), Government of Manipur opened the Bid Number: GEM/2021/B/1382494 on 25.07.2021 for supply, installation and commissioning of (1) 860 nos. of Desktops; (2) 860 nos. of 860 All-in-one Desktop; and (3) 1720 nos. of UPS.

It is further an admitted position that the petitioner was awarded the bid on 16.10.2021 being Bid No. GEMC-511687720476612 without any right given to the petitioner to negotiate or amend any clauses of the contract and the recommendation of prospective bidders to extend the delivery schedule by 6-8 months was neither considered nor incorporated in the contract.

It is further an admitted position that General terms and conditions on GeM 3.0 (Version 1.10) of the Contract provided for formation of coordinating committee to settle *inter se* disputes between the parties.

It is further an admitted position that in the event, the coordinating committee was not constituted or was unable to settle the dispute, the same had to be referred to an Arbitrator to be nominated by the respondent.

It is not denied that despite communications addressed to the respondent dated the 9th February, 2024 and 1st April, 2024 no coordinating committee in terms of the General terms and conditions was formed nor was an Arbitrator nominated to settle the *inter se* disputes that

have admittedly arisen between the parties in relation to the subject Bid No. GEM/2021/B/1382494.

It is in this backdrop that the petitioner has instituted the present proceeding seeking appointment of an Arbitrator to adjudicate the claims and disputes between the parties in relation to the said contract dated 16th October, 2021.

In view of the foregoing, learned counsel appearing on behalf of the parties, on instructions from the latter, stated that a retired Judge of the High Court may be appointed by this Court as the sole Arbitrator to adjudicate the claims and disputes between the parties.

Consequently, in view of the facts and circumstances as elaborated hereinabove and with the consent of the parties, I appoint Justice U.B. Saha, Former Chairperson, Manipur Human Rights Commission and Former Judge, Tripura High Court, (Tripura Residence: Camp Office, Gorkha Basti, Airport Road, Agartala, Tripura and Kolkata Residence: BF 67, Street No. 64, Kolkata New Town, Adjacent to Gate No. 3, Swapna Bhore, Senior Citizen Park, (Mobile Number:- 9436120069); as the Sole Arbitrator to adjudicate the claims and disputes between the parties with regard to Bid No. GEM/2021/B/1382494. Needless to state that the arbitration proceedings shall be governed by the provision of Arbitration and Conciliation Act, 1996 as amended up to date.

The present arbitration petition is accordingly allowed and disposed of.

A copy of this order be sent to Hon'ble sole arbitrator as well as to the counsel for the parties.'

'19.12.2024

Mr. M. Devananda, learned Additional Advocate General, Manipur, appearing for the review petitioners, submitted that arbitration petition, being Arb. P. (J2) No. 3 of 2024, came up for hearing on 26.09.2024 and on that day, Mr. S. Nepolean, learned Government Advocate, appeared on behalf of the State of Manipur. Final order was passed in the aforesaid arbitration petition on the said day by recording the

statement of the counsel for the parties. Relevant portion of the order is extracted as follows:

"In view of the foregoing, learned counsel appearing on behalf of the parties, on instructions from the latter, stated that a retired Judge of the High Court may be appointed by this Court as the sole Arbitrator to adjudicate the claims and disputes between the parties."

Recording the aforesaid statement of the learned counsel appearing on behalf of the parties, this Court has appointed a Former Judge of the High Court.

Learned Additional Advocate General, Manipur, submitted that on receipt of the aforesaid order passed by this Court, Ms. RK Emily Devi, learned Dy. Government Advocate, sent a communication to the Department on 14.10.2024, by stating that the learned senior counsel appearing for the State respondents has not actually made the above extracted statement before the Court and therefore, made a request to take a decision for filing a review petition at the earliest.

Learned Additional Advocate General, Manipur, further submitted that as per the agreement entered between the parties, if any dispute arises between the parties, the said dispute shall be referred to an Arbitrator, who is a Government servant.

Mr. H. Kenajit, learned counsel appearing for the respondent, made an objection stating that the said order was passed by this Court with the consent of the parties. According to him, no prejudice is caused to the review petitioners, if a former Judge of the High Court is appointed as an Arbitrator to decide the issues among the parties concerned.

After hearing both the parties, this Court is of the view that any concession given by the Government Advocate, without getting any specific instructions, should not be a binding on the department as decided by the Hon'ble Supreme Court in the case of **Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala**, reported in **AIR 1990 SC 2192**. Relevant para is extracted below:

"9. Any concession made by the government pleader in the Trial Court cannot bind the Government as it is obviously, always, unsafe to rely on the wrong or erroneous or wanton concession made by the counsel appearing for the State unless it is in writing on instructions from the responsible officer. Otherwise it would place undue and needless heavy burden on the public exchequer. But the same yardstick cannot be applied when the Advocate General has made a statement across the bar since the Advocate General makes the statement with all responsibility."

The aforesaid decision has been relied upon in the recent decision of the Hon'ble Supreme Court in the case of **Prasanta Kumar Sahoo and Ors. Vs. Charulata Sahu and Ors, reported in (2023) 9 SCC 641** in para 101 sub-para 29 of the said decision.

The learned counsel appearing for the respondent herein has not specifically denied the contention made by the review petitioners in the affidavit and in the light of the decision of the Hon'ble Supreme Court in **Periyar and Pareekanni Rubbers Ltd. (Supra)**, this Court accepts the submission made by the review petitioners and consequently, the order passed by this Court dated 26.09.2024 in Arb. P. (J2) No. 3 of 2024 is recalled.

The present review petition is accordingly allowed.

List Arb. P. (J2) No. 3 of 2024 for hearing on 23.01.2025.

In the meantime, the review petitioners may file their counter affidavit, if any, in the Arbitration Petition.'

[17] A careful perusal of the earlier order and the review order makes it clear that review was not on the ground of any objection to the sole arbitrator (former Hon'ble Judge of Tripura High Court) being appointed and the review was only on the ground that learned State counsel has not made a concession. In any event earlier order in captioned Arbitration Petition was set aside, captioned

arbitration petition has been resurrected for being heard out and both sides have given legal quietus and are arguing captioned arbitration petition. Therefore, there is no impediment in appointing the same sole arbitrator by an order of this Court dehors any concession from learned State counsel and on the contrary, by negating both the points on which learned State counsel resisted the captioned section 11 petition.

[18] There is no disputation that the place from where contract has been placed by State(buyer) is Imphal, Manipur. The place for State (primary buyer) is Imphal, Manipur and therefore, the seat of arbitration shall be Imphal, Manipur.

[19] Ergo, the sequitur is, this Court appoints Hon'ble Mr. Justice U.B. Saha, Former Chairperson, Manipur Human Rights Commission and Former Judge, Tripura High Court, (Tripura Residence: Camp Office, Gorkha Basti, Airport Road, Agartala, Tripura and Kolkata Residence: BF 67, Street No. 64, Kolkata New Town, Adjacent to Gate No. 3, Swapna Bhore, Senior Citizen Park, (Mobile Number:- 9436120069) as sole arbitrator to adjudicate questions, disputes and differences arising from contract placed through GeM pertaining to Bid dated 25.07.2021 bearing reference GEM/2021/B/1382494, supply order dated 16.10.2021 which is governed by GtC and Clause-16 therein. Though obvious, it is made clear that the arbitration proceedings will be governed by A&C Act and the fee for the Hon'ble Arbitrator will stand governed by Schedule IV of A&C Act.

[20] Captioned arbitration petition disposed of in the aforesaid manner. There shall be no order as to costs.

CHIEF JUSTICE