

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

Case: Arb P No. 1/2025

M/s KCC Buildcon Private Limited

...Petitioner(s)/Appellant(s)

Through: Mr. Javaid Hameed, Advocate.

V/s

Engineer in Chief and ors.

.... Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC.

CORAM: HON'BLE THE CHIEF JUSTICE

ORDER
28.11.2025

(ORAL)

01. The petitioner-M/s KCC Buildcon Private Limited, has invoked the jurisdiction of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996, (for short '**the Act**') seeking appointment of an independent Arbitrator.

02. The petitioner-M/s KCC Buildcon Private Limited firm, was allotted a work "**CA NO. CEAUFU-31/2017-18:resurfacing of the runway and aircraft operating surfaces at Air Force Station, Jammu, by the Chief Engineer, Accepting Officer vide letter date 04.01.2019**" for a sum of ₹ 153,11,87,367.00 and the period for completion was twenty six months. The Letter of Acceptance for the work order was issued on 11.01.2019 and the agreement between the parties was executed on 04.02.2019, containing the General Conditions of Contract (IAFW-2249).

It is submitted that the work which was to be completed in three phases, was done by the petitioner on 26.03.2022 with a delay of 12 months. The delay was attributed to the respondents which was conveyed to them vide

communication dated 06.05.2022. On 14.05.2022, a final bill of work done was raised by the petitioner, in response whereof, the respondents unilaterally disallowed the petitioner's claim.

Despite several requests made to the respondents regarding the resolution of the dispute that arose between the parties, the respondents did not accede to any of the requests. And the petitioner finally vide notice(s) dated 14.04.2023 and 20.04.2023 invoked Condition 70 of the General Conditions of Contract (IAFW-2249) seeking appointment of an arbitrator. The said notices also remained unanswered. Hence the petition in hand.

03. Pursuant to the notice issued by this Court, the respondents though caused appearance and reply/ response has been filed on their behalf.

04. In brief what is sought to be urged is that the extension of time granted by the respondents upto the actual date of completion, was denied, instead, the same was granted under condition 11(A)(iv) & 11(D) of the IAFW-2249. As regards to the final bill raised by the petitioner, it is submitted that the petitioner was requested to submit final bill in two parts 'undisputed' and 'disputed' but the petitioner did not agree to delete the hypothetical claim from the final bill. The petitioner had not invoked the DRB clause as per the provisions of the contract agreement and the respondents vide letter dated 11.08.2022 had forwarded the agreement for appointment of the arbitrator but the petitioner refused to sign the same.

05. The existence of the arbitration clause, as aforesaid, and its invocation by the petitioner vide notice(s) dated 14.04.2023 and 20.04.2023 is not disputed.

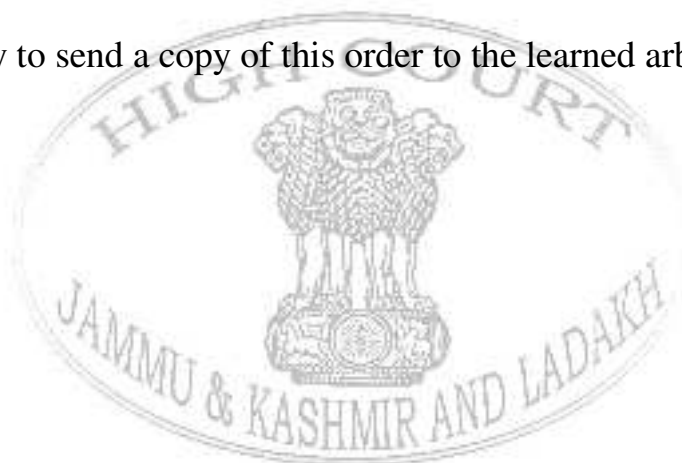
06. Having argued the matter at some length and in the given circumstances, learned counsel for the respondents, as always, fairly submits that, let an arbitrator be appointed. But, since the claim that is sought to be made by the

petitioner is vehemently disputed/ denied, it is submitted that respondent be granted liberty to raise all possible pleas/ objections before the arbitral tribunal/ arbitrator in this regard.

07. Accordingly, in the wake of the position sketched out above and in terms of the statements made by the learned counsel for the parties, the petition is allowed. And, with consent of learned counsel for the parties, **Sh. Arvind Kumar Arora, DG (Pers) MES R/o B/333 Chittaranjan Park, South Delhi, Delhi, 110019** is appointed as the sole arbitrator. Who shall proceed with the matter in accordance with the provisions of the Act. And to make an award within the time provided in the Act itself after charging the prescribed fee along with incidental expenses to be shared by the parties. The respondents are at liberty to raise all the objections as regards the subject matter before the learned Arbitrator.

08. Registry to send a copy of this order to the learned arbitrator.

Jammu
28.11.2025
Sunita/Secy.



(ARUN PALLI)
CHIEF JUSTICE