

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

CJ Court

Case: Arb P No. 108/2025

M/s Mool Raj Sharma.

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

Through: Mr. Uday Bhaskar, Advocate.

V/s

Union of India and ors.

.... Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Sumant Sudan, Assisting Counsel.

CORAM: HON'BLE THE CHIEF JUSTICE

ORDER
05.12.2025

(ORAL)

01. The present petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996, (for short '**the Act**') seeking appointment of an independent Arbitrator.

The petitioner firm being a registered "S" Class contractor with Military Engineering Service Department, was allotted work "**CEUZ/RAJ/12/2022-23: CONSTRUCTION OF 04 X TECHNICAL BUILDING AT NADPUR UNDER GE 862 EWS**" issued on 08.10.2022 which was to be completed in two phases having the specification after amendment for both the phases as under:

Phase-I

- | | |
|----------------------------------|------------|
| a) Date of handing over the site | 07.11.2022 |
| b) Date of commencement of work | 07.11.2022 |
| c) Date of completion | 17.01.2023 |

Phase-II

- | | |
|----------------------------------|------------|
| a) Date of handing over the site | 18.01.2023 |
| b) Date of commencement of work | 18.01.2023 |
| c) Date of completion | 16.09.2024 |

The contract price for the allotted work was fixed for a lumpsum amount of ₹ 9,95,96,010.08 and the work order came to be issued in favour of the petitioner on 18.01.2023. It is submitted that the petitioner completed the work for both the phases on 17.01.2023 and 29.05.2023 respectively and the completion certificates were issued on 18.01.2023 and 31.05.2023. It is submitted that thereafter the dispute arose between the parties on account of prolongation of the contract as a result of non-decision on the part of respondents for site clearance work, ordering of minus deviation orders, lesser payment in deviation orders for variation in quantities and addition of new items against Schedule-A Part –II, claim for payment of market rates for excess quantity over the above 25% of CA quantity in terms of condition 7(c) of IAFW-2249 GCC, non-payment in respect of cutting of trees.

The petitioner vide letter dated 23.06.2025 invoked the Disputes Resolution Board (DRB) clause contained in the GCC and requested to refer all the disputes to the DRB and the Accepting officer was required to notify the names of the Chairman and Members of the DRB within one month from the date of acceptance which was not done.

The petitioner finally vide communication dated 25.09.2025 issued a notice to the respondents seeking appointment of an arbitrator giving the complete details of the unresolved disputes therein. But the respondents did not accede to any of the requests. However, the respondents vide communication dated 15.11.2025 proceeded to constitute three members DRB to resolve the disputes already raised by the petitioner vide communication dated 23.06.2025, stating therein that the request made for constitution of DRB was not received by

the respondents. It is averred by the petitioner that the constitution of DRB after the petitioner had already invoked the arbitration clause vide communication dated 25.09.2025 was futile as the DRB had to settle the disputes/claims within period of three months after invocation of the DRB clause unless extended by the consent of the parties. The respondents had failed to appoint the arbitrator for redressal of the disputes that arose between the parties. Hence this petition.

02. Heard. Notice.

03. Served with advance copy of the petition, Mr. Sumant Sudan, learned counsel present in Court, accepts notice on behalf of respondents.

04. The existence of the arbitration clause, as aforesaid, and its invocation by the petitioner vide notice dated 23.09.2025, is not disputed.

07. Thus, 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.

08. 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, **Mr. Satish Chander, Additional Director General (Retd) MES R/o Lane No. 4, Greater Kailash Jammu, (Mobile No. 9417256367)** 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.

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

(ARUN PALLI)
CHIEF JUSTICE

Jammu
05.12.2025
Sunita/Secy.

