

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU
(Through Virtual Mode)**

Arb P No.55/2026

M/s Prevalence Green Solutions Pvt. Ltd. ...Petitioner(s).

Through: Mr. Aijaz Ahmad Chisti, Advocate.

Vs.

Shri Mata Vaishno Devi Shrine Board Respondent(s)

Through: Mr. Rajnish Raina, Sr. Advocate, (*Though VC*), with
Mr. Rishu Rajeshwar, Advocate.

**CORAM:
HON'BLE THE CHIEF JUSTICE**

ORDER
11.09.2026

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator.
2. The petitioner being engaged inter alia in the business of providing environmentally sustainable mobility and transport solutions, including Battery Operated Vehicle (BOV) services at Pilgrimage and public utility locations entered into a licence agreement dated 15.05.2019 with the respondent for providing BOV services from Adhkuwari to Bhawan and vice versa via Himkoti Marg. The agreement was initially operative for a period of three years commencing from 16.06.2018 to 15.06.2021 and after having been extended from time to time was lastly extended by virtue of letter dated 22.04.2026 upto 14.07.2026. It is urged that the parties had agreed that all collections and earnings generated from operation of the BOVs would be directly remitted to the account of the respondent and after deduction of the applicable licence fee and royalty, the balance amount would be remitted to the petitioner in accordance with the agreed revenue

sharing arrangement. It is submitted that due to unprecedented rainfall, severe landslides and catastrophic weather conditions resulting in loss of human lives in the month of August and September, 2025, all the commercial activities on the route were suspended by the Government and consequently, the petitioner also stopped his operations for a period of 22 days.

It is urged that during Covid-19 pandemic also the operations remained suspended and the respondent Board waived the licence fee and royalty, however, for the aforesaid of 22 days, despite requests the respondents refused to waive the licence fee and the royalty. It is submitted that respondent has wrongfully levied and retained an aggregate amount of Rs.88,00,000/- towards licence fee and other associated deductions for the suspended period despite there being complete non-operation and impossibility of contractual performance. On failure of the respondents to accede to the request of the petitioner, the petitioner invoked Section 21 of the Arbitration and Conciliation Act, and served notice dated 28.04.2026 in terms of Arbitration Clause-41 upon the respondent, but the respondent has failed to appoint an arbitrator in the matter constraining the petitioner to approach this Court under Section 11(6) of the Arbitration and Conciliation Act.

3. Pursuant to the notice issued by this Court, the respondent had caused appearance and filed its response. The respondent *inter alia* contends that the petition is not maintainable being misconceived. It is submitted that Clause 31 of the Agreement executed inter-se parties provides a specific mechanism for compensation in the event of suspension of Yatra, however, the does not contain any provision for waiver or remission of licence fee, as such, no relief could be extended to the petitioner. It is, as such, prayed that petition be dismissed.

4. While going through the objections, the existence of the arbitration clause, as aforesaid, and its invocation by the petitioner vide notice dated 28.04.2026 is not disputed. Accordingly, learned counsel for the respondent, as always, fairly submits that let an arbitrator be appointed, but since the claim that is sought to be made by the petitioner is apparently misconceived/untenable, the respondent be granted liberty to raise all

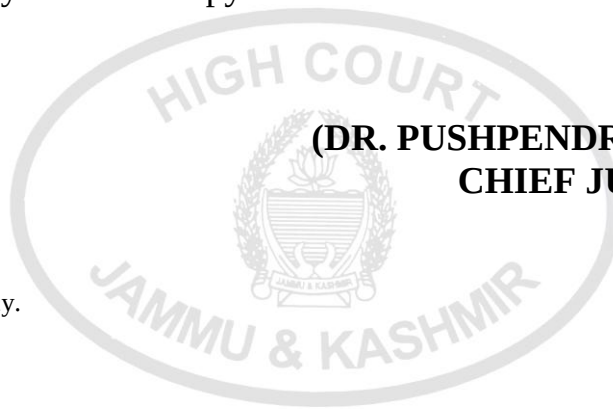
possible pleas/ objections before the arbitral tribunal/ arbitrator in this regard.

5. Accordingly, with the consent of learned counsel for the parties, Mr. Mohammad Yousuf Akhoun, Retired District and Sessions Judge, (Mobile No.9419042625) 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.

6. The petition is accordingly disposed of with the above terms.

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

Srinagar
11.09.2026
Abdul Qayoom, Secy.



(DR. PUSHPENDRA SINGH BHAT)
CHIEF JUSTICE