



CNR: KAHC010287942026

NC: 2026:KHC:54705  
CMP No. 198 of 2026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 1<sup>ST</sup> DAY OF OCTOBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD**

**CIVIL MISC. PETITION NO. 198 OF 2026**

**BETWEEN:**

M/S SRI. GIRIRAJU.P  
ENGINEERS AND CONTRACTORS  
OFFICE SITUATED AT NO.36  
16<sup>TH</sup> CROSS, 8<sup>TH</sup> MAIN  
MALLESHWARAM, BANGALORE – 560055  
REP.BY DIRECTOR GIRIRAJU.P.

...PETITIONER

(BY SRI. ZULFIKIR KUMAR SHAFI., ADVOCATE)

**AND:**

THE STATE PROJECT DIRECTOR  
RASHTRIYA MADHYAMIKA  
SHIKSHANA ABHIYANA (RMSA)  
NEW PUBLIC OFFICES PREMISES  
NRUPATHUNGA ROAD, K.R. CIRCLE  
BANGALORE-560 001.

...RESPONDENT

(BY SRI.CHANDRAKANTH PATIL K, AAG ALONG WITH  
SMT. PRATHIBHA R K, AGA)

THIS CMP IS FILED UNDER SECTION 11(6) OF  
ARBITRATION AND CONCILIATION ACT PRAYING TO APPOINT  
JUSTICE AJITH G. GUNJAL (RETIRED), HIGH COURT OF  
KARNATAKA OR JUSTICE ASHOK B. HINCHIGERI (RETIRED),  
HIGH COURT OF KARNATAKA OR ANY OTHER RETIRED HIGH  
COURT JUDGE AS SOLE ARBITRATOR TO ADJUDICATE THE  
DISPUTE BETWEEN THE PETITIONER AND RESPONDENT  
ARISING OUT OF THE AGREEMENT DATED 05.06.2013 VIDE  
ANNEXURE A AND IN PURSUANCE OF CLAUSE NO. 23 OF





GENERAL CONDITIONS OF CONTRACT AND READ WITH  
CLAUSE NO. 4 OF SPECIAL CONDITIONS OF CONTRACT VIDE  
ANNEXURE-B AND ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,  
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

**ORAL ORDER**

1. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, "the Act") read with Notification No.LCA/I/402/1996 dated 13.11.1996 of High Court of Karnataka, seeking appointment of a sole Arbitrator for adjudication of the disputes that have arisen between the parties under the Agreement dated 05.06.2013 vide Annexure-A and in pursuance of Clause No.23 of General Conditions of Contract and read with Clause No.4 of Special Conditions of Contract vide Annexure-B.

2. Brief facts of the case are that the petitioner is a Company engaged in the business of constructions throughout Karnataka and was awarded the work of construction of Adarsha Vidyalaya at Kollegal and Yelandur



Blocks of Chamarajanagar District under Package-A6 of the Rashtriya Madhyamik Shiksha Abhiyan project. Pursuant thereto, the petitioner and respondent entered into a Construction Agreement dated 05.06.2013 containing arbitration clause. During execution of the work, disputes arose regarding delay in handing over the site, non-payment of running account bills, non-supply of drawings and non-payment of the final bill etc., which the petitioner attributed to the respondent. Though the petitioner completed the work and submitted the final bill for Rs.89,86,365/-, the amount remained unpaid. Therefore, the petitioner approached this Court in W.P.No.16235/2022, which was disposed of directing the respondent to assess and make payment. In the subsequent contempt proceedings in CCC No.716/2023, the respondent disputed the petitioner's entitlement and stated that only Rs.7,96,732/- was payable. The contempt petition was closed reserving liberty to the petitioner to avail its remedies in accordance with law.



3. As the disputes arose between the parties in relation to the Supply Agreement, the petitioner, invoking the arbitration clause contained therein, issued a notice dated 05.03.2026 vide Annexure-E to the respondent, under Section 21 of the Act. The said arbitration Clause 23 of General Conditions of Contract read with Clause No.4 of Special Conditions of Contract vide Annexure-B reads as under:

**"23. Procedure for Resolution of Disputes**

*23.1 If the Contractor is not satisfied with the Decision taken by the Employer, the Dispute shall be referred by either Party to Arbitration within 30 days of the notification of the Employer's Decision.*

*23.2 If neither Party refers the Dispute to Arbitration within the above 30 days, the Employer's Decision will be final and binding.*

*23.3 The Arbitration shall be conducted in accordance with the Arbitration Procedure stated in the Special Conditions of the Contract."*

**Read with**

**"clause 4 Arbitration (Clause 24)**

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*4.1 The Procedure for Arbitration shall be as follows.*

*a. In case of Dispute or Difference arising between the Employer and the Contractor relating to any Matter arising out of or connected with this Agreement it shall be settled in accordance with the Arbitration and Conciliation Act 1996. The Disputes or Differences shall be referred to a Sole Arbitrator. The Sole Arbitrator shall be appointed by the Employer and binding on both the parties.*

*b. Arbitration Proceedings shall be held at Bangalore, Karnataka, India*

*c. The Cost and Expenses of Arbitration Proceedings will be paid as determined by the Arbitrator. However, the Expenses incurred by each Party in connection with the Preparation, Presentation, etc. shall be borne by each Party itself.*

*d. Performance under the Contract shall continue during the Arbitration Proceedings and Payments due to the Contractor by the Employer shall not be withheld, unless they are the Subject Matter of the Arbitration Proceedings.”*

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4. The respondent sent a reply dated 25.03.2026 vide Annexure-F to the said notice. Being dissatisfied with the reply, the present petition is filed seeking appointment of a sole Arbitrator.

5. Learned Additional Advocate General (AAG) appearing for the respondent raised the following contentions:

a) *Firstly*, learned AAG raised a preliminary objection regarding the maintainability of the petition. He contended that, as per Clause 35 of the General Conditions of Contract, the contractor was required to submit the bills along with the running bills. It was submitted that the running bills were submitted prior to 2017 and, therefore, any claim relating to amounts due ought to have been raised along with the running bills at that time. The petitioner, after a lapse of five years, had raised the present dispute claiming a sum of Rs.89,86,365/- along with interest. On this ground, it was



contended that the petition was not maintainable. In support of his contention, learned AAG relied upon the judgment of the Hon'ble Apex Court in the case of ***BHARAT SANCHAR NIGAM LIMITED AND ANOTHER vs. NORTEL NETWORKS INDIA PRIVATE LIMITED*** reported in ***(2021) 5 SCC 738***.

b) Secondly, the petitioner had earlier approached this Court by filing writ petition under Articles 226 and 227 of the Constitution of India. Having already invoked the said remedy before this Court, the petitioner cannot subsequently file a petition seeking appointment of an arbitrator in respect of the same subject matter.

c) Thirdly, pursuant to the directions issued by this Court in W.P.No.16235/2022 by order dated 05.12.2022, the dispute between the parties stood settled and, therefore, no dispute remained for consideration to refer the matter to the arbitrator.



d) Fourthly, while the petitioner had earlier claimed a sum of Rs.89,86,365/-, a different claim had subsequently been raised for a sum of Rs.22,17,05,299/- in the notice invoking arbitration. It was submitted that the said present claim is an exaggerated claim and that the claim made by the petitioner itself was not maintainable. In support of his contention, learned counsel relied upon the judgment of the Hon'ble Apex Court in the case of **NTPC LIMITED vs. SPML INFRA LIMITED** reported in **(2023) 9 SCC 385**.

Accordingly, learned AAG sought dismissal of the petition.

6. Per contra, learned counsel appearing for the petitioner has raised the following contentions:

a) *Firstly*, the respondent himself had admitted that a sum of Rs.89,86,365/- was due and payable to the petitioner. It was submitted that the earlier writ petition was filed only in respect of the admitted amount and that



merely because the petitioner had approached this Court for payment of the admitted amount, it would not preclude the petitioner from subsequently raising a dispute under the arbitration clause contained in the agreement.

b) *Secondly*, since there was a delay in making payment of the admitted amount, the petitioner was also entitled to claim interest for the delayed payment. It was submitted that, after calculating the interest, GST and other amounts payable under the contract, the petitioner had raised the appropriate claim for a sum of Rs.22,17,05,299/- before the respondent in the arbitration notice.

c) *Thirdly*, in CCC No.716/2023 dated 06.11.2025 filed by the petitioner, the respondent had filed an affidavit/compliance report stating that an amount of Rs.7,96,732/- had been paid to the petitioner on 12.04.2023 and had disputed the remaining amount claimed by the petitioner. According to the petitioner, the



said stand of the respondent itself establishes that a dispute had arisen between the parties. It was therefore submitted that the petitioner had invoked the arbitration clause by issuing notice dated 05.03.2026 and that the claim was within the period of limitation.

d) *Fourthly*, the Division Bench of this Court, while disposing of the earlier contempt proceedings, had reserved liberty to the petitioner to work out his remedy in accordance with law. Therefore, there was no bar for the petitioner to invoke the arbitration clause and seek appointment of an arbitrator.

e) *Fifthly*, once a dispute exists between the parties and the agreement contains arbitration clause, all such disputes are required to be adjudicated by the arbitrator and the same cannot be decided by this Court in proceedings under Section 11(6) of the Arbitration and Conciliation Act, 1996.



7. Heard the learned counsel for the parties. Perused the writ petition papers.

8. It is not in dispute that the respondent entered into an agreement with the petitioner on 05.06.2013 in respect of construction of school buildings. The specific case of the petitioner is that a sum of Rs.89,86,365/- was due and payable by the respondent. The same has been admitted by the respondent. Pursuant to the directions issued by this Court in W.P.No.16235/2022, the respondent has admittedly paid only a sum of Rs.7,96,732/- to the petitioner and has disputed the liability to pay the remaining amount claimed by the petitioner. This itself demonstrates that there is a dispute between the parties regarding the amount payable under the agreement.

9. Since the Agreement contains an arbitration clause, the disputes arising between the parties are required to be adjudicated in accordance with the said arbitration clause. This Court, while exercising jurisdiction under section 11(6) of the Arbitration and Conciliation Act, 1996, is not



required to adjudicate the merits of the monetary claim made by the petitioner.

10. As regards the objection relating to delay and the obligation of the petitioner under Clause 35 of the General Conditions of Contract, it is the contention of the respondent that the contractor was required to submit monthly bills in respect of the value of the work completed, after deducting the cumulative amount already paid, and that the monthly bills had been finally settled prior to 2017. According to the respondent, the petitioner could not have raised the present claim after several years.

11. However, prior to raising the present dispute, the petitioner had approached this Court by filing W.P.No.16235/2022, which came to be disposed of by this Court on 05.12.2022. In the said writ petition, this Court passed the following order:

*"The submission is placed on record. Respondent No.1 shall within eight weeks from the date of the receipt of the copy of this order, assess the amount*

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*by drawing up a report with regard to the admitted amount and make such payment to the petitioner.”*

12. In paragraph No.4 of the order of the said writ petition, the Court recorded the submission of the learned Additional Government Advocate that, if reasonable time was granted, the admitted amount would be calculated and paid to the petitioner without any loss of time.

13. The said order did not adjudicate the entire claim of the petitioner nor did it record a finding finally determining the rights of the parties in respect of the disputed amount.

14. In the contempt petition i.e., in CCC No.716/2023 which was disposed of on 06.11.2025, an affidavit has been filed stating that an amount of Rs.7,96,732/- had been paid to the petitioner on 12.04.2023 and disputed the liability to pay the remaining amount of Rs.81,89,633/- claimed by the petitioner. Thus, the stand taken by the respondent in the contempt proceedings itself shows that the liability claimed by the petitioner was disputed.



15. It is also relevant to note that, while disposing of the contempt petition, liberty was reserved to the petitioner to work out his remedy in accordance with law. Thereafter, the petitioner issued notice dated 05.03.2026 invoking the arbitration clause. Therefore, the contention that there is no dispute between the parties cannot be accepted at this stage.

16. The Hon'ble Supreme Court, in the case of ***SRI GENERAL INSURANCE COMPANY LIMITED V. KRISH SPINNING***, reported in ***(2024) 12 SCC 1***, has considered the judgment in the case of '***BHARAT SANCHAR NIGAM LIMITED***' (supra) and held that even the question of limitation can be raised and adjudicated before the arbitrator. Therefore, the objection raised by the respondent regarding limitation and the alleged delay in raising the claim are matters which can be urged before the learned arbitrator. This court, at the stage of considering an application under section 11(6) of the



Arbitration and Conciliation Act, 1996, need not adjudicate those issues on merits.

17. As regards the contention that the petitioner had earlier approached this court by filing a writ petition, learned counsel for the petitioner has submitted that the earlier writ petition was confined to the admitted amount and that the subsequent dispute arose when the respondent disputed the petitioner's claim for the remaining amount. The material placed before this court indicates that the respondent has, in fact, disputed the remaining claim of Rs.81,89,633/-. Therefore, the existence of a dispute between the parties cannot be denied.

18. It is also noticed that, in the notice invoking arbitration, the petitioner has referred to a claim of Rs.22,17,05,299/-, whereas in the earlier writ proceedings the amount claimed was stated to be Rs.89,86,365/-. The petitioner has also referred to interest, GST and other amounts in the notice invoking arbitration. These are



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matters which require examination based on facts and law and are appropriately left open for determination by the learned arbitrator.

19. This Court, while exercising jurisdiction under section 11(6) of the Arbitration and Conciliation Act, 1996, cannot undertake a detailed adjudication of the monetary claims, the question of limitation, the effect of Clause 35 of the General Conditions of Contract, the correctness of the interest calculation, the claim towards GST or any other disputed component of the claim. All such contentions are therefore, left open to be urged by the respective parties before the learned arbitrator.

20. Having regard to the existence of the arbitration clause contained in the said Agreement, which provides for resolution of disputes arising between the parties, and the fact that the petitioner has duly invoked the said arbitration clause by issuing notice under Section 21 of the Act, this Court is of the opinion that a Sole Arbitrator is



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required to be appointed for adjudication of the disputes between the parties.

21. Accordingly, the following:

ORDER

- a) Civil Miscellaneous Petition is **allowed**.
- b) Hon'ble Mr.Justice Ajit J.Gunjal, Former Judge, High Court of Karnataka, is appointed as the Sole Arbitrator in the present case to arbitrate the disputes between the parties at the Arbitration and Conciliation Centre (Domestic & International), Bengaluru, as per the Rules governing the said Arbitration Centre.
- c) All the claims and contentions of the parties, including those relating to limitation, delay, maintainability, the effect of aforesaid Clause 35 of the Agreement, the amount claimed, interest, GST and other claims, are left open to be urged and decided by the Hon'ble Mr.Justice Ajit J.Gunjal, Former Judge, High Court of Karnataka, in accordance with law.



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- d) Any finding given by this Court are only for the purpose of deciding the present petition.
- e) Registry is directed to communicate this order via e-mail to the Arbitration and Conciliation Centre (Domestic & International), Khanija Bhavan, Bengaluru, and also to Hon'ble Mr.Justice Ajith J.Gunjal, Former Judge, High Court of Karnataka.
- f) Registry is directed to return all the original documents produced by any of the parties after obtaining Photostat copies of the same.
- g) Parties are directed to appear before the Director, Arbitration and Conciliation Centre, Bengaluru, on **29.10.2026** at 11:30 a.m.

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**(H.T. NARENDRA PRASAD)**  
**JUDGE**