

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Arb. Case No. 159 of 2026
Decided on : 21.08.2026

M/s Surindera Traders

...Petitioner

Versus

Union of India and others

...Respondents

Coram

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Whether approved for reporting?¹

For the petitioner : Mr. Arvind Sharma, Senior Advocate, with Ms. Kiran Sharma, Advocate.

For the respondents : Mr. Balram Sharma, Deputy Solicitor General of India.

G.S. Sandhawalia, Chief Justice (Oral)

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

2. The dispute arises out of a Contract entered into between the parties, pursuant to Notice Inviting Tender dated 02.01.2019 (Annexure A-4) for construction of Hospital at Palampur. The stipulated date of completion of work was 13.02.2021, as per Work order dated 02.01.2019. The petitioner vide letter dated 02.11.2025 (Annexure A-6) had raised its demand as such and invoked Clause 70 of IAFW-2249 of the

¹ Whether reporters of the local papers may be allowed to see the judgment?

Contract Agreement vide letter dated 17.11.2025 (Annexure A-7), for the appointment of a sole Arbitrator.

3. The respondents had responded to the same, whereby an offer had been made that the view of the respondents was that the Clause 12 (5) of the Act be waived off, which was regarding the ineligible persons to be the Arbitrator, as specified in the 7th Schedule of the Act.

4. Counsel for the petitioner has relied upon the judgments of the Apex Court, passed in ***Perkins Eastman Architects DPC and another Vs. HSCC (India) Ltd., (2020) 20 SCC 760*** and ***Voestalpine Schienen Gmbh Vs. Delhi Metro Rail Corporation Ltd., (2017) 4 Supreme Court Cases 665***, to contend that the view that the respondents had given them a *fait accompli* compliance by enclosing the Agreement as such, that a serving Officer has to be appointed as a sole Arbitrator, having degree in Engineer or equivalent or having passed final/direct final examination of Sub-Division II of the Institution of Surveyor (India).

5. Keeping in view the above, as the Arbitration Clause not having been denied and the respondents being not in a position to appoint an Officer as an Arbitrator in view of the settled law, this Court is of the considered opinion that once the parties had agreed to the mode of settlement by way of

arbitration, the present petition deserves to be allowed, by appointing an Arbitrator, who will look into the said dispute.

6. Accordingly, the present petition is allowed and Hon'ble Mr. Justice Tarlok Singh Chauhan, Former Chief Justice of the High Court of Jharkhand, is appointed as an Arbitrator to adjudicate the dispute between the parties. After his disclosure in writing is obtained in terms of Section 11(8) of the Act and only after receipt thereof, his appointment, as an Arbitrator, shall come into force.

7. On his giving consent to arbitrate the dispute between the parties as an Arbitrator, Hon'ble Mr. Justice Tarlok Singh Chauhan, Former Chief Justice-Arbitrator, shall enter into reference, and pass an award in accordance with law.

8. Copy of this order be furnished to the learned counsel for the parties as also to the learned Arbitrator. The learned Arbitrator so appointed, shall be entitled to fee as per stipulation contained in 4th Schedule appended to the Arbitration and Conciliation Act, 1996.

9. Hon'ble Mr. Justice Tarlok Singh Chauhan, Former Chief Justice-Arbitrator, is requested to conclude the proceedings at the earliest keeping in view the delay which has already occurred.

10. It is further directed that the Arbitrator after the

proceedings are concluded, shall send the record to the Registrar (Judicial) for keeping the same in safe custody, since the challenge is liable to be raised under the provisions of the Arbitration Act to the award in question and it would be in the interest of justice to preserve the record, whereby the Arbitrator as such has been appointed by this Court.

11. Accordingly, the petitions are disposed of, so also the pending applications, if any.

(G.S. Sandhawalia)
Chief Justice

August 21, 2026
(Shivank Thakur)