

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Case No.339 of 2025

Date of Decision:- 18.09.2026

Kushala Nand Sharma

....Petitioner

Versus

Managing Director and another

....Respondents

Coram

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

Whether approved for reporting?¹

For the Petitioner : Mr. Suneet Goel, Senior Advocate
with Mr. Vishwas Kaushal,
Advocate.

For the Respondents : Ms. Kiran Lata Sharma, Advocate.

G.S. Sandhawalia, Chief Justice (Oral).

The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 by the petitioner-Contractor seeking appointment of an Arbitrator, keeping in view the fact that there is Clause 25 regarding settlement of disputes of the agreement **(Annexure P-2)** executed for the 'Expansion of Sub-Market Yard at Sarhan, District Sirmour, Himachal Pradesh' (comprising 6 shops, a

¹ Whether reporters of Local Papers may be allowed to see the judgment?

conference room, a toilet block, a pantry, and site development work).

2. The rescission of the contract of the petitioner-contractor on 06.02.2024 (**Annexure P-3**) was done by the respondent-Board, which led to the initiation of arbitration proceedings on 28.06.2025 (**Annexure P-4**), whereby three names were proposed for appointment of an arbitrator in a notice sent to the Engineer-in-Chief, HPPWD, Shimla, keeping in view the terms of the agreement.

3. Thereafter, the Chief Engineer (SZ), HPPWD, Shimla had referred the matter to the Managing Director, Himachal Pradesh State Agriculture Marketing Board, Khalini, Shimla vide letter dated 04.07.2025 (**Annexure P-5**), which led to the filing of the present petition.

4. In the reply filed by the respondents-Board, it is stated that the final bill, amounting to Rs.1,42,45,507/-, was prepared in favour of the petitioner-Contractor on 17.01.2024. Furthermore, the present petition being filed after a lapse of 1 year, 4 months, and 22 days from the date and the award being rescinded on 06.02.2024, was raised on the ground of limitation.

5. In such circumstances, the appointment of an Arbitrator is opposed, considering the fact that the parties had

agreed to resolve their disputes through arbitration as per the agreement entered into, this Court is of the considered opinion that the ends of justice would be met if an independent Arbitrator is appointed.

6. The dispute arises on account of the idling of manpower and machinery given the prolongation of charges, apart from price escalation and a final bill that is stated to have been withheld for measured and unmeasured work.

7. Resultantly, the application is allowed and Hon'ble Mr. Justice Tarlok Singh Chauhan, former Chief Justice of High Court of Jharkhand at Ranchi (Mobile No.8894370077) 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.

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

9. Copy of this order be furnished to the learned counsel for the parties and also be furnished 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.

10. Accordingly, the application is disposed of alongwith pending miscellaneous application(s), if any.

18th September, 2026
(Munish Thakur)

(G.S. Sandhawalia)
Chief Justice