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IN THE HIGH COURT OF BOMBAY AT GOA

**APPLICATION FOR APPOINTMENT OF ARBITRATOR NO. 5
OF 2025**

Gypsum Structural India Pvt. Ltd.,
Through Its Managing Director,
Mr. Niranjana Lal Garg,
Age 3 years, Indian National,
Regd. Office at: 185-A, Pocket-B,
Mayur Vihar-II, Delhi-110091.

... Applicant

Versus

The Sewerage & Infrastructural
Development Corporation of Goa Ltd.
(SIDCGL)
Office at:- Ishan Building, 2nd Floor,
Opp. C.C.P.
Panaji – Goa – 403001

... Respondents

Mr. Hanumant D. Naik, Advocate for the Applicant.

Ms. Akshata Bhat, Additional Government Advocate for the
Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 9th JULY, 2025.

ORAL ORDER:

1. The above Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “**the Arbitration Act**”) seeking the appointment of a Sole Arbitrator to decide the disputes and differences arising out of

‘Providing & Laying of Sewer Pipeline at Margao-Goa by Micro Tunneling Method, Vol-1 : Tender Documents and Conditions of Contract and Vol-2: Price Proposal’ pursuant to which work order dated 21.09.2017 was issued by the Respondent and work completion certificate dated 04.08.2022 was issued (hereinafter referred to as “**the Agreement**”). Clause 20 of Volume-1 therein provides for the dispute resolution mechanism in the event that any dispute arises. Clause 20.6 of this Agreement is the Arbitral Clause under which the Applicant seeks appointment of a Sole Arbitrator.

2. It is the case of the Applicant-company, that vide letter dated 18.05.2023, it had requested the Respondent to refer their claims to the Dispute Adjudicating Board contemplated under Section 2 and 3, Volume 1, Clause 20.1 and 20.2, read with Schedule IV, Section 7, for the settlement of the dispute and that a subsequent reminder was sent vide letter dated 08.07.2023; that despite persistent attempts of the Applicant-Company to refer the dispute to the Dispute Adjudicating Board, the said dispute was not so referred.

3. It is further the contention of the Applicant-Company that having no alternative it issued a notice dated 04.09.2023 to the Respondent, raising three claims invoking the Arbitration Clause 20.6 of the Agreement, and sought reference of the dispute to an Arbitral Tribunal.

The Respondent in their reply dated 30.10.2023 to the said letter, denied the claims of the Applicant Company, stating that the letter dated 04.09.2023 invoking the Arbitration Clause was pre-mature for the want of compliance of prior requirements before referring the matter to arbitration as contemplated under the Agreement. Since the parties could not reach a consensus on appointment of an Arbitrator, the Applicant has approached this Court for such appointment under Sub-clause (6) Section 11 of the Arbitration Act.

4. Considering that the Arbitral Clause 20.6 of Sections 2 and 3 of Volume 1 of the Agreement specified disputes to be resolved by an Arbitrator, and there is a dispute between the parties as to who should be appointed as the arbitrator, I hereby exercise jurisdiction under Sub-section 6 of Section 11 of the Arbitration Act and proceed to make the appointment of an Arbitrator in the below mentioned terms, leaving all contentions raised by the respondent as to whether the Arbitral Tribunal would have jurisdiction to proceed in view of the objections raised in the aforementioned reply dated 30.10.2023 open. This objection would be a matter within the realm of Section 16 of the Arbitration Act, leaving it to the appointed Arbitrator to adjudicate upon his own jurisdiction.

5. In these circumstances, the following order is passed :-

(A) Mr. Justice Bharat P. Deshpande, a Retired Judge of this Court, is appointed as the Sole Arbitrator to decide upon the disputes and differences between the Applicant and the Respondent arising out of and/or in connection with and/or in relation to the Agreement referred to in para 1 above.

(B) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocate for the Applicant within a period of one week from today.

(C) The learned Sole Arbitrator is requested to forward his Statement of Disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Advocate for the Applicant so as to enable him to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Advocates for the Respondent.

(D) The parties shall appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions with regard to fixing a schedule for completing pleadings etc. The learned Sole Arbitrator shall give all further directions with reference to the arbitration and also as to how it is to proceed.

(E) Contact and communication particulars shall be provided by both sides to the learned Sole Arbitrator

within a period of one week from today. This information shall include a valid and functional email address as well as the mobile numbers of the respective Advocates.

(F) Learned Sole Arbitrator shall charge his fees as per the 4th Schedule of the Arbitration and Conciliation Act, 1996 read with the Bombay High Court (Fee payable to Arbitrators) Rules, 2018. All the arbitral costs and the fees of the Arbitrator will be borne by the Applicant and the Respondent equally and will be subject to the final Award that may be passed by the Tribunal.

(G) The parties have agreed that the seat of the arbitration will be in Goa, and the venue shall be as per the directions of the arbitrator.

6. The Application is disposed of in the aforesaid terms. There shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by email of a digitally signed copy of this order.

VALMIKI MENEZES, J.