

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.35 OF 2025

M/s P.L. Adke

Through sole proprietor P.L. Adke

....Petitioner

Versus

Maharashtra Jeevan Pradhikaran (MJP)

....Respondent

Mr. Shardul Singh a/w. *Prerna Gandhi, Anish Shahapurkar & Ketul Bhandari i/b. SHS Chambers, Advocates for Petitioner.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : SEPTEMBER 30, 2025

ORDER :

1. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under a Work Order dated April 29, 2017 (*"Agreement"*). The arbitration agreement is contained in Clause 28 of the General Conditions of the Contract read with Clause 9 of the Special Conditions of the Contract. In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court

2. It is apparent from the record that the arbitration agreement was

invoked by Petitioner on March 21, 2025. There is no reply to the invocation notice. However, Learned Counsel for the Petitioner has tendered across the bar, a letter dated April 25, 2025 in which it is contended by the Respondent that the clause in question, which provides for unilateral appointment, would not constitute a valid arbitration clause in view of the declaration of the law. However, the very same letter indicates that an independent arbitrator is required to be appointed to adjudicate the disputes between the parties.

3. In these circumstances, the existence of an arbitration agreement is not denied by the Respondent. That apart, in Paragraph 8 of the said letter dated April 25, 2025 it is stated that grievances may firstly be taken to the Executive Engineer, Yavatmal for redressal, and the decision in the hierarchy of decision making, as provided in Clauses 30, 30.1 and 30.2 of the General Conditions, would apply.

4. On the face of it, the clauses referred to in Paragraph 8 of the reply dated April 25, 2025 refer to operational disputes whereas disputes and differences between the parties fall explicitly under the title of arbitration in the conditions of contract.

5. In these circumstances, the existence of an arbitration agreement being writ large, no useful purpose would be served keeping this Petition pending any further.

6. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge bench in the *Interplay Judgement*^a followed by multiple others, including *SBI General*^b and *Patel*^c that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

7. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in connection with the aforesaid agreement to arbitration by a Sole Arbitrator.

8. In these circumstances, this Petition is hereby ***finally disposed of***, in terms of the following order:

A] Justice (Retd.) Sadhana Jadhav, a former judge of this Court is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement

¹ *In Re: Interplay Between Arbitration Agreement under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 – (2024) 6 SCC 1*

² *SBI General Insurance Co. Ltd. Vs. Krish Spinning – 2024 SCC OnLine 1974*

³ *Ajay Madhusudan Patel Vs. Jyotindra S. Patel – 2024 SCC OnLine. 2597*

referred to above. The contact details of the Learned Arbitrator are set out below:-

Address : 153, 15th Floor, Jolly Maker 3,
Next to D M Somani School,
Cuffe Parade, Mumbai.

Email Id : : sjadhavo66o@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of upload of this order. The Petition shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocates for the Petitioner so as to enable them 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 Petition and a copy of the same shall be furnished by the Advocates for the Petitioner to the Advocates for the Respondent;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional

email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

9. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

10. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]