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Arb O.P(COM.DIV.) No. 4  
of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-11-2025**

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH**

**Arb O.P(COM.DIV.) No. 485 of 2025**

Er T Sivakumar M.Tech  
Civil Engineer & Contractor  
No.74, Bharathidhasan Street,  
Muthailpet, Puducherry 605 003

Petitioner

Vs

1. The Chief Engineer  
Public Works Department  
Government of Puducherry  
Puducherry
- 2.The Superintending Engineer Circle-I  
Public Works Department  
Government of Puducherry  
Puducherry
3. The Executive Engineer  
Buildings & Roads (Central) Division  
Public Works Department, Puducherry

Respondents



**PRAYER**

- a) To appoint an independent Sole Arbitrator to adjudicate upon the claims of the petitioner as per the Arbitration Applications dated 02.05.2025 submitted by the petitioner to the 1st respondent herein viz., the Chief Engineer, Public Works Department Government of Puducherry as per the Agreement No.04/TA/PW/BRC/2015-16 dated 02.04.2015 and as per Clause 25 of the General Conditions of the contract for Public Works 1996 and as amended Act 2015
- b) award cost of this petition

For Petitioner: Mr.N.Thiagarajan

For Respondents: Mr.V.Vasanthakumar  
Additional Government Pleader  
(Pondy)

**ORDER**

This original petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate and decide the disputes between the petitioner and the respondents arising out of the agreement dated 02.04.2015.

2. When this petition came up for hearing on 18.08.2025, this Court passed the following order:-

“This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for the appointment of an Arbitrator by this Court.

2. There seems to be a dispute between the petitioner and the



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respondents arising out of the Contract dated 02.04.2015. There exists an arbitration clause in the Contract and the same is extracted hereunder:

**'CLAUSE 25**

*Settlement of Disputes and Arbitration*

*Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter: (i) If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request the Superintending Engineer in writing for written instruction or decision. Thereupon, the Superintending Engineer shall give his written instructions or decision. Thereupon, the Superintending Engineer shall give his written instructions or decision within a period of one month from the receipt of the contractor's letter. If the Superintending Engineer fails to give his instructions or decision in writing within the aforesaid period or if the contractor is dissatisfied with the instructions or decision of the Superintending Engineer, the contractor may, within 15 days of the receipt of Superintending Engineer's decision, appeal to the Chief Engineer who shall afford an opportunity*



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*to the contractor to be heard, if the latter so desires, and to offer evidence in support of his appeal. The Chief Engineer shall give his decision within 30 days of receipt of contractor's appeal. If the contractor is dissatisfied with this decision, the contractor shall within a period of 30 days from receipt of the decision, give notice to the Chief Engineer for appointment of arbitrator failing which the said decision shall be final binding and conclusive and not referable to adjudication by the arbitrator.*

*(ii) Except where the decision has become final, binding and conclusive in terms of Sub-Para (i) above disputes or difference shall be referred for adjudication through arbitration by a sole arbitrator appointed by the Chief Engineer, P.W.D., in charge of the work or if there be no Chief Engineer, the administrative head of the said P.W.D. If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.*

*It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the rejection by the Chief Engineer of the appeal.*

*It is also a term of this contract that no person other than a person appointed by such Chief Engineer P.W.D. or the administrative head of the PWD, as aforesaid should act as arbitrator and if for any reason that is not possible, the matter shall not be referred to arbitration at all.*

*It is also a term of this contract that if the contractor does not make any demand for appointment of arbitrator in respect of*



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*any claims in writing as aforesaid within 120 days of receiving the intimation from the Engineer-in-Charge that the final bill is ready for payment, the claim of the contractor shall be deemed to have been waived and absolutely barred and the Government shall be discharged and released of all liabilities under the contract in respect of these claims. The arbitration shall be conducted in accordance with the provisions of the Arbitration and conciliation Act, 1996 (26 of 1996) and as amended in January 2005, or any statutory modifications or reenactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.*

*It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs. 1,00,000/- the arbitrator shall give reasons for the award. It is also a term of this contract that if any fees are payable to the arbitrator, these shall be paid equally by both the parties or in such other manners as may be determined by the arbitrator.*

*It is also a term of the contract that the arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties calling them to submit their statement of claims and counter statement of claims. The venue of the arbitration shall be such place as may be fixed by the arbitrator in his sole discretion. The fees, if any, of the arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties or in such other manners as may be determined by the arbitrator. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who may direct to any by whom and in what manner, such costs or any part thereof shall be paid and fix or settle the*



*amount of costs to be so paid.'*

3.The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 28.03.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. No reply has been received for the same.

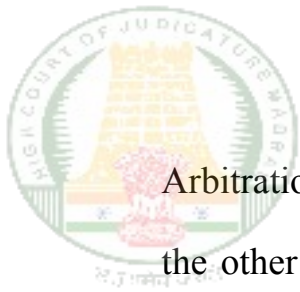
4.Since there is no consensus between the parties with regard to the name of the Arbitrator and since there exists an arbitration clause in the contract which is the subject matter of the dispute and since the petitioner has complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996, this Court is issuing notice to the respondents returnable by 17.09.2025. Private notice is also permitted. ”

3. After service of notice, the learned Additional Government Pleader appears on behalf of the respondents.

4. The learned Additional Government Pleader submitted that the respondents are denying the entire claim that has been made by the petitioner and hence the respondents must be permitted to raise all the grounds before the learned Arbitrator.

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. It is seen that there is a valid agreement in line with Section 7 of the



Arbitration and Conciliation Act, 1996, which contains an arbitration clause. All the other grounds can be raised before the learned Arbitrator and they will be considered on their own merit and in accordance with law. Accordingly, Mr.C.Mani Shankhar, Senior Advocate, having address for service at “UMA” New No.11, Old No.24, II Main Road, Kottur Garden, Kotturpuram, Chennai 600 085, Mobile No.9840335115, email:[cmshankhar@gmail.com](mailto:cmshankhar@gmail.com) is appointed as the sole Arbitrator and the learned Arbitrator is requested to enter upon reference qua the agreement dated 02.04.2015, adjudicate the arbitral disputes that have arisen between the parties by holding the sittings in any venue to the convenience of all concerned and render an award. Fees of the sole Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (MHCAC)(Administrative Cost and Arbitrator's Fees) Rules 2017.

7. This original petition is disposed of in the above terms. There shall be no order as to costs.

**03-11-2025**

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes/No

Neutral Citation:Yes/No

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To

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of 2025



1. Mr.C.Manishankar  
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2. The Director  
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Madras High Court Arbitration Centre  
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3. The Chief Engineer  
Public Works Department  
Government of Puducherry  
Puducherry
4. The Superintending Engineer Circle-I  
Public Works Department  
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5. The Executive Engineer  
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**N.ANAND**  
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