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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 09.07.2025

+ **ARB. A. (COMM.) 14/2025**

M/S ANAND AND CO

.....Petitioner

Through: Mr. Ratan K. Singh, Sr. Adv. with
Mr. Kunwar Chandresh, Ms. Poonam
Prasad, Mr. Divyansh Singh, Mr.
Munis Nasir, Mr. Kanishka Shivhare,
Mr. Anand Murthi Rao, Advs.

versus

AIRPORT AUTHORITY OF INDIA

.....Respondent

Through: Mr. Digvijay Rai, Standing Counsel
Mr. Archit Mishra, Mr. Gagan
Kochar, Sr. Manager (Law)
Ms. Kashish Singhal, Ms. Pragya
Bansal, JEs (Law)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

I.A. 5868/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This is an appeal filed under section 37(2)(b) of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") challenging the interim order dated 11.02.2025 passed by the learned Sole Arbitrator wherein the application under section 17 of 1996 Act filed by the appellant seeking injunction



against the respondent to restrain them from taking any further coercive steps against the appellant pursuant to unilateral Blacklisting/Debarment Order, was dismissed.

4. The said application was dismissed on the ground that granting the interim relief sought would amount to granting the final relief itself.

5. The facts are that the appellant is a contractor engaged in electrical maintenance work. On 17.10.2019, the appellant entered into an Agreement with the Indian Aviation Academy (“*IAA*”) for the operation and maintenance of the complete power supply system, valued at Rs. 65.82 lakhs. Subsequently, on 11.08.2020, the appellant was awarded a separate contract by the Airport Authority of India (“*AAI*”) for operation and maintenance of substation, powerhouse, and electrical installations at the DATS Complex, IGI Airport, New Delhi, valued at approximately Rs. 2.67 crores, with a completion period of two years.

6. The respondent issued Show Cause Notice dated 09.10.2024 alleging that during the pendency of AAI Agreement, the appellant had fraudulently claimed wages, PF, ESI, and bonus for the same set of 13 workmen under both AAI and IAA contracts. The appellant replied to the said Show Cause Notice denying all the allegations. Subsequently, a Final Show Cause Notice dated 22.10.2024 was issued which the appellant replied on 01.11.2024. Thereafter, the respondent passed an order dated 06.11.2024 debarring the appellant for a period of two years.

7. The appellant then challenged the Debarment Notice by filing a petition under section 9 of 1996 Act being O.M.P. (I) (COMM.) 394/2024. The said petition was disposed of by this Court directing the learned Arbitrator to treat the petition under section 9 as an application under



section 17 of 1996 Act and dispose of the same.

8. The learned Sole Arbitrator heard arguments on the application filed under section 17 of 1996 Act and recorded his findings in paragraph 12 of the impugned order as under which is extracted below:-

“12. After hearing both the parties my view is as under:

i. The dispute is centered around the allegation of double payment of Wages, P.F., E.S.I, etc. in respect of 13 workmen on the rolls of the Claimant as the allegation levelled by the Respondent is that payment was claimed and taken from two different organizations, i.e., AAI and IAA. Whether any such payment was claimed by the Claimant or not, this moot question cannot be decided without allowing the parties to lead evidence and the other side is to be given a chance to cross-examine the witnesses so produced.

ii. No claim petition has been filed till date. Only an application under Section 17 of the Arbitration & Conciliation Act, 1996 is being adjudicated by the Tribunal. Since the main dispute itself is centered around the debarment order dated 06.11.2024, so the interim relief claimed in the application under discussion and the main claim to be raised in the statement of claim are going to be the same.; hence in my view the final claim cannot be considered and granted at the interim stage.

iii. This Tribunal is conscious of the difficulties being faced by the Claimant, so keeping this fact in view, every effort



will be made to decide the disputes finally between the parties at the earliest in a time bound manner.

iv. In view of the above the application filed by the Claimant/ Applicant under Section 17 of the Arbitration & Conciliation Act, 1996 is dismissed.”

9. Mr. Singh, learned senior counsel for the appellant submits the Debarment Order dated 06.11.2024 was passed in a wholly arbitrary and unilateral manner, without affording the appellant a fair opportunity to respond to the allegations or access any inquiry report or supporting documents. It is further contended that the blacklisting has caused grave prejudice to the appellant, who is a contractor engaged in public works, now stands barred from participating in multiple tenders, resulting in irreparable commercial and reputational loss.

10. He further submits that the learned Arbitrator failed to appreciate the urgency of the matter and the serious civil consequences arising from the Debarment. Reliance is placed on ***Oasis Projects Ltd. v. National Highway & infrastructure Development Corpn. Ltd., 2024 SCC OnLine Del 2549***, wherein the Court held that such interim relief is essential to preserve the rights of the aggrieved party during the pendency of arbitration, especially where denial of relief would render the entire arbitral process infructuous.

11. *Per Contra*, Mr. Mishra, learned counsel for the respondent states that the learned Arbitrator has rightly exercised his discretion in declining interim relief. The Appellant was found to have engaged in fraudulent conduct by claiming statutory payments such as wages, Provident Fund, ESI, and bonus for the same set of 13 workmen under two separate contracts one with the respondent and the other with the IAA. In light of



these serious allegations involving misrepresentation and breach of trust, the debarment order was issued after due consideration.

12. It is further submitted that the relief sought by the appellant in section 17 application is identical to the final relief that would be claimed in Arbitration. Granting such relief at an interim stage would amount to pre-judging the dispute and render the arbitral proceedings infructuous. Reliance is placed on ***National Highways Authority of India v. Neeraj Upadhyay***, 2014 SCC OnLine SC 1894 and more particularly on para 10 which is reproduced below:-

“10. These are the issues which have to be taken into consideration by the High Court at the time of hearing of the petition filed by the respondent. We are in agreement with the learned counsel for the appellants that granting of such order amounts to giving final relief. However, at the same time, since the order visits the respondent herein with civil and/or evil consequences, we are of the opinion that the main writ petition itself be heard by the High Court at an early date. We thus dispose of this appeal by requesting the High Court to decide the writ petition finally on merits within a period of two months from the date of the receipt of a copy of this order. Till that time, the orders dated 29th October, 2013 passed by this Court shall remain in force.

11. The appeal is disposed of accordingly.”

13. In addition, reliance is also placed on ***National Highways Authority of India versus Theme Engineering Services Private Ltd. & Ors., LPA***



No. 56/2021.

14. I have heard learned counsel for the parties.

15. Before going into the submissions advanced by the parties, it is essential to highlight the scope of section 37(2)(b) of 1996 Act.

16. Recently, in **NHAI v. HK Toll Road (P) Ltd., 2025 SCC OnLine Del 2376**, I have dealt with the same and the relevant paragraphs are extracted below:-

“56. A perusal of the aforesaid judgments show that the appellate court while exercising powers/jurisdiction under Section 37 of the 1996 Act and more particularly under Section 37(2)(b) of the 1996 Act has to keep in mind the limited scope of judicial interference as prescribed under Section 5 of the 1996 Act. Section 5 of the 1996 Act clearly reflects the legislative intent to minimize judicial interference in the arbitration process. Unlike the appeals under other statutes, the appeals under the 1996 Act against the orders passed by the Arbitral Tribunal are subject to strict and narrow grounds. The 1996 Act aims at minimal court involvement, thereby to uphold the autonomy and efficiency of the arbitration process. (Reference: paras 64, 66, 68-70 of Dinesh Gupta case).

57. The appellate court is not required to substitute its views with the view taken by the Arbitral Tribunal which is a reasonable or a plausible view except where the discretion is exercised arbitrarily or where the AT has ignored the settled principles of law. In fact, the whole purpose to bring



the 1996 Act is to give supremacy to the discretion exercised by the AT. The appellate court is not required to interfere in the arbitral orders especially a decision taken is at an interlocutory stage. The appellate court is only required to see the whether the AT has adhered to the settled principles of law rather than reassessing the merits of the AT's reasoning.”

17. On perusal, this Court has to exercise its power only if the arbitral order suffers from perversity, arbitrariness and manifest illegality.

18. In the facts of the present case, the appellant has been debarred by the respondent *vide* order dated 06.11.2024, without being afforded a personal hearing or supplied with the alleged inquiry report forming the basis of such blacklisting. Requests made by the appellant for disclosure of relevant documents were either ignored or met with further show-cause notices repeating the same allegations. Notably, the debarment order was passed while section 9 petition was pending before this Court and was issued just two days after service of notice, thereby depriving the appellant of an opportunity to be heard by this Court. The appellant, who primarily undertakes annual repair and maintenance contracts, has consequently been unable to participate in crucial tenders floated during the period of December, 2024 to April, 2025, which is the core bidding window. Such exclusion has caused immediate and serious commercial and reputational harm, with ripple effects across its ongoing and prospective engagements.

19. In this backdrop, the judgment of ***Oasis Projects Ltd*** (supra) assumes direct relevance. The Coordinate Bench therein clearly opined that debarment notices have serious civil consequences on the debarred parties. It



was held that if a debarment order is suspended during the pendency of arbitral proceedings and the matter is subsequently adjudicated on merits, no prejudice is caused to the employer. This is for the reason that, should the arbitrator ultimately uphold the debarment, the remaining unexpired portion of the debarment can be imposed at that stage. On the other hand, if the debarment is found to be without justifiable cause, the damage already inflicted on the debarred party is irreparable and incapable of restitution. I find force in this reasoning. Relevant paragraphs of ***Oasis Projects Ltd.*** (supra) and more particularly para nos. 25, 26 and para 44 reads as under:

“25. The impugned order of the ld. Sole Arbitrator dated 19th July, 2023, merely records that the issue of debarment and validity thereof would be required to be determined after detailed examination of evidence being led and findings being raised on the controversies. Such an approach could defeat the complete purpose inasmuch as out of the two years period of debarment, the Appellant has already suffered the debarment for more than one and a half years. By the time the arbitration proceedings conclude, the debarment period itself would be over, thus, there may be no way of restituting the Appellant for the opportunity cost during this period.

26. On the other hand, if the debarment is suspended and postponed for the time being, and if the ld. Sole Arbitrator comes to the conclusion that the termination by the Respondent was valid and that the Appellant was responsible for delays and breaches, the debarment can be given effect to at that stage as well. On the other hand, if the ld. Sole Arbitrator comes to the



conclusion that there were events beyond the control of the Appellant which could justify the non-performance then there would be no debarment. Therefore, not deciding the issue on the basis that detailed examination of evidence is required would fail the purpose. Further, non-grant of relief at this stage would result in irreparable prejudice to Appellant.

44. In the light of the settled legal position discussed above as also the facts of the present case which show that the Appellant's justification for non-performance requires to be adjudicated, the impugned order deserves to be set aside. The Appellant shall not be treated as non-performer or a debarred entity. The said declaration on the website of the NHIDCL shall also be removed within a week."

(Emphasis added)

20. The learned Arbitrator, while recognising the hardship caused by the debarment, has failed to take into account the applicability of ***Oasis Projects Ltd*** (supra) and has not provided any reasons for its non-reliance. This omission becomes significant in view of the fact that the judgment directly addresses the legal standard applicable to interim relief in cases of blacklisting during arbitration. The reliance placed by the respondent on ***Neeraj Upadhyay*** (supra) and ***Theme Engineering Services*** (supra) are misplaced, as those cases involved no immediate or irreversible harm and did not pertain to a business disruption of the nature presently faced by the appellant. Unlike those matters, the present case involves exclusion from a



narrow and time-sensitive tender cycle, where the opportunity cost suffered by the appellant cannot be compensated through final relief alone.

21. Additionally, even though the learned arbitrator recognizes the hardships caused to the petitioner and even notes that every effort would be made to adjudicate the disputes expeditiously, a period of more than five months has elapsed since the passing of the impugned order dated 11.02.2025. I am informed that the parties have only concluded their pleadings. The appellant may still need to lead evidence, examine witnesses, and thereafter argue the matter. There appears to be no likelihood of the arbitration proceedings concluding in the near future. In such circumstances, the denial of interim protection has rendered the right to seek redress nugatory, and the purpose of seeking urgent relief under Section 17 stands defeated.

22. For the aforesaid reasons, I find that the learned Arbitrator has erred in not granting interim protection to the appellant and has failed to apply the binding reasoning laid down in *Oasis Projects Ltd* (supra).

23. Accordingly, the appeal is allowed and the impugned order dated 11.02.2025 is set aside.

24. The learned Arbitrator is requested to reconsider the application under section 17 of 1996 Act, which shall be heard and decided expeditiously and preferably within four weeks. In the meanwhile, the debarment order dated 06.11.2024 shall remain stayed.

JASMEET SINGH, J

JULY 9, 2025/Pr
(Corrected and released on 15.07.2025)