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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 502/2025**
A K CHATURVEDI

.....Petitioner

Through: Mr. Sanjoy Bhaumik, Adv.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Himanshu Pathak, SPC, Mr. Amit
Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
09.07.2025

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1. This is a petition filed under section 11 (6) of Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator to adjudicate the disputes between the parties arising out of Agreement bearing No. 16/EE/SJHD 2019-20.
2. The facts are that the parties entered into the Agreement No. 16/EE/SJHD 2019-20 for exterior aesthetic work including the re-strengthening and repairing of damages chhajjas, shafts and windows of surgical building in Safdarjung Hospital, New Delhi, pursuant to the award of work on 30.05.2019.
3. As per the agreement, the work was to be completed by 01.10.2019 but since, there were delays, the respondent terminated the Agreement on 04.04.2022.



4. The agreement was governed by the Terms and Conditions of the GCC, with the arbitration clause incorporated as Clause No. 25, which reads as under:

“CLAUSE25

(a.) 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 Engineerin- 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 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 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 the decision of the Chief Engineer, the contractor may within 30 days from the receipt of the Chief Engineer decision, appeal before the Dispute Redressal Committee (DRC) along with a list of disputes with amounts claimed in respect of each such dispute and giving reference to the rejection of his disputes by the Chief Engineer. The Dispute Redressal Committee (DRC) shall give his decision within a period of 90 days from the receipt of Contractor's appeal. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule 'F'. If the Dispute Redressal Committee (DRC) fails to give his decision within the aforesaid period or any party is satisfied with the decision of Dispute Redressal Committee (DRC), then either party may within a period of 30 days from the receipt of the decision of Dispute Redressal Committee (DRC), give notice to the Chief Engineer for appointment of arbitrator on prescribed proforma as per Appendix XV, failing which the said decision shall be final binding and conclusive and not referable to adjudication



by the arbitrator.

It is a term of contract that each party invoking arbitration must exhaust the aforesaid mechanism of settlement of claims/disputes prior to invoking arbitration.

(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, CPWD, in charge of the work or if there be no Chief Engineer, the Additional Director General of the concerned region of CPWD or if there be no Additional Director General, the Special Director General or the Director General, CPWD. 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 CPWD or Additional



Director General or Special Director General or Director General, CPWD, 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 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) or any statutory modifications or re-enactment thereof and the rules made thereunder 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 the contract that if any fees are payable to the



arbitrator, these shall be paid equally by both the parties.

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 settlement 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. 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.”

5. The petitioner’s case is that, since the respondent failed to constitute a Dispute Redressal Committee (“DRC”) in terms of Clause 25 (a) (i) of the GCC, the petitioner is entitled to invoke arbitration.
6. Mr. Pathak, learned counsel for the respondent states that the reply has been filed, however the same is not on record. A copy of the reply has been handed over in Court today and the same is taken on record.
7. He further submits that as per Clause 25, the petitioner was required to exhaust the remedy available before the DRC, and since the petitioner has failed to do so, the present petition is not maintainable.
8. I have heard learned counsels for the parties.
9. A perusal of Clause 25 as reproduced above shows that the DRC has to



be constituted as per Schedule F.

10. The constitution of committee as per Schedule F is as under :

S.No.		For claim upto 25 Lacs	For claim more than 25 Lacs
	Chairman	Director (Works-cum-TLC), O/o ADG (NDR), CPWD, Nirman Bhawan, New Delhi	Chief Engineer (NDZ-V), CPWD, Vidyut Bhawan, Shankar Market, New Delhi
	Member	EE, SKHD	Director (Works-cum-TLC), O/o ADJ (NDR), CPWD, Nirman Bhawan, New Delhi
	Member	EE, RMLHD	SE(P0 O/o CE-NDZ-VI
	Member	EE, SJHD shall present the case before DRC, but shall not have any part in decision making	SE, DCC-X shall present the case before DRC, but shall not have any part in decision making

11. The respondent vide letter dated 21.10.2022 constituted the DRC. The letter dated 21.10.2022 reads as under:



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Speed Post/ e-mail



भारतसरकार
केन्द्रीय लोक निर्माण विभाग
कार्यालय: अपर महानिदेशक (दिल्ली),
216-ए, निर्माणभवन, नई दिल्ली- 110011

Government of India
Central Public Works Department
O/o Additional Director General (Civil)
216-A, Nirman Bhawan,
New Delhi 110011



Tel: 011-23062284, 23062171

E-mail : deladgdr.cpwd@nic.in, delsetlca-rd@cpwd.gov.in, Web: https://cpwd.gov.in

संख्या:- 55(10)अ.म.नि. (दि.)/ कार्य एवं टी एल क्यू ए/2022-23/ 7500 दि.क. 21-10.2022

सेवामें,

✓ M/s A.A. Enterprises,
352, Asola, Fatehpur Beri,
New Delhi-110074
(e-mail:- Akd1289@gmail.com)

विषय:- Formation/ Constitution of Dispute Redressal Committee and seeking a decision as per clause 25 of GCC..

कार्य का नाम :- Exterior aesthetic work including Re-strengthening and repairing of damaged chhazzas, shafts and windows of surgical building in SJH, New Delhi.

करार सं०-16/EE/SJHD/2019-20

एजेंसी:- M/s A.A. Enterprises

संदर्भ:- Your letter No. NIL dated 28.09.2022

महोदय,

With reference to your letter cited above, it is intimated that DRC has already been constituted vide O.M. No. 20(03)/(DRC)/ADG(RD)/W&TLQA/1066 dated 11.06.2020 (copy enclosed). The Constitution of DRC is as follows:-

Chief Engineer, NDZ-3, New Delhi	Chairman of DRC
Superintending Engineer, DC-10, New Delhi.	DRC Member Secretary
Superintending Engineer (W&TLQA), (RD).	Member 1 DRC
Superintending Engineer, DC-4, New Delhi.	Member 2 DRC
Executive Engineer, SJHD, New Delhi.	Case Presenter

You are requested to take up the matter with the Chairman DRC for further consideration.

Encl:- As above

निदेशीय
42/20.10.2022
(एस. के. अग्रवाल)
अधीक्षण अभियंता (कार्य एवं टीएलक्यूए)

प्रतिलिपिनिम्न को सूचना एवं आवश्यक कार्यवाही हेतु:-

- (1) मुख्य अभियंता, न. दि. अ - 3, के.लो.नि.वि., कमरा सं०- 119, सेवा भवन, आर.के. पुरम, नई दिल्ली- 110066 (email :- cendz3.cpwd@nic.in).
- (2) अधीक्षण अभियंता, दिल्ली प्ररिमंडल-10, के.लो.नि.वि., पूर्वी ब्लॉक-1, लेवल- 7, आर.के.पुरम, नई दिल्ली (E-mail:- delsecd10@gmail.com) You are requested to release the pending payment to agency, if any, as per terms & conditions of the agreement to avoid any future litigation to safeguard the Govt. interest.

TRUE COPY

Contd..



12. On 31.10.2022, the petitioner replied to the letter dated 21.10.2022 expressing its disagreement to the DRC constituted by the respondent. The letter dated 31.10.2022 reads as under:

A. A. ENTERPRISES *Document-P-13*
CPWD GOVT. CONTRACTOR & GENERAL ORDER SUPPLIERS
352, ASOLA, FATEHPUR BERTI, NEW DELHI-110074
Ph: No. 9312707435, 9811681706

To
The superintendent engineer
Works and TLQA
CPWD, New Delhi

Dated: 31/10/2022

Name Of Work- Exterior aesthetic work including Re-strengthening and repairing of damaged chhazzas, shafts and windows of surgical building in SJH, New Delhi.

Agt. No. 16/EE/SJHD/2019-20

Sub- Regarding letter no. 7490 dated 21/10/2022

Dear Sir,

In your letter the DRC members are below

- 1) Chief Engineer, NDZ-3, New Delhi (chairman of DRC)
- 2) Superintending Engineer, DC-10, New Delhi (DRC member secretary)
- 3) Superintending Engineer, (W&TLQA), (RD) (Member 1 DRC)
- 4) Superintending Engineer, DC-4, New Delhi (Member 2 DRC)
- 5) Executive Engineer, SJHD, New Delhi (case presenter)

In our agreement schedule F The DRC members are as under

- 1) Chairman - Director (works-cum-TLC), O/o ADG (NDR), CPWD, Nirman Bhawan, New Delhi
- 2) Member- EE, SKHD
- 3) Member- EE, RMLHD
- 4) Member- EE, SJHD shall present the case before DRC, but shall not have any part in decision making

Hence I can't accept the DRC mentioned in your letter dated 21/10/2022, as the same is constituted unilaterally by you without my consent. Hence I evoke clause 25, arbitration clause and I am going to court for the appointment of arbitrator

Yours truly

A.A. Enterprises

E0039363332IN IVR16203936333
SF ANBARI NAGAR SO - 110029
Counter No: 1.01/11/2022.12:18
To: THE SUPDT. ENG. R.I. 212, A MDNS
PIN: 110011, Nirman Bhawan SO
From: A.A. ENTERPRISES, 352, ASOLA FATEH
Wtr: 100ms
Amt: 17.70 (Cash) Tax: 2.70
<Track on www.india-post.gov.in>
Dial 18002666800 <Clear Postage for Safe>

13. Thereafter, there has been no reply on behalf of the respondent to the letter dated 31.10.2022 issued by the petitioner.



14. Accordingly, in terms of Clause 25, the petitioner wrote a letter dated 14.03.2024 to the Chief Executive Engineer, invoking the arbitration clause. The letter dated 14.03.2024 reads as under:

Date : 14.03.2024

To

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The Chief Executive Engineer (Civil)
CPWD R K Puram NDZ III
New Delhi

Name of the work : Exterior aesthetic work including strengthening and repairing of damaged chazzas, shafts and windows of surgical building in Safdarjung Hospital, New Delhi

Agreement No. 16/EE/SJHD/2019-20

Invocation of clause 25 of GCC for appointment of Arbitrator

Dear Sir

Please refer to my earlier letter dated 14.03.2022 wherein I had requested for payment of my 1st and final bill of Rs. 11,38,072/- which included extra item of Rs. 3,76,391/-. The letter was invoked under clause 25 of general conditions of contract. Thereafter notice dated 15.03.2022 under clause 3 was received from the department. Thereafter you allegedly cancelled the contract vide letter No. 555 dated 04.04.2022. We vide letter dated 07.04.2022 issued letter to Superintending Engineer under clause 25 of GCC and also vide letter dated 24/05/2022 issued to Chief Engineer under clause 25. However, no decision was formed.

Following are our claims

Claim No. 1

Nonpayment of 1st and final bill amounting to Rs. 7,61,681/-

Claim No. 2

Payment of extra item of Rs. 3,76,391/-

Claim No. 3

Refund of performance guarantee of Rs. 57,000/-

Claim No. 4

Interest @18% p.a. on all claims

Please treat this as invocation of clause 25 of general conditions of contract for appointment of Arbitrator.

Thanking you

A K Chaturvedi
A K Chaturvedi
Proprietor of AA Enterprises

ED121661735IN ITR:696812165173
SP ANSARI NAGAR SO <110029>
Counter No:1,14/03/2024,13:56
To:THE CHIEF ENG,N.D.Z. III C.P.U
PIN:110066, R K Puram Main SO
From:AA. ENTERP,352 ASOLA FATEHP
Uti:5005
Amt:17.70(Cash)Tax:2.70
<Track on www.indiapost.gov.in>
<Dial 18002668368> <Near Mehta, Star Site>

15. There is no response to the said letter as well.

16. The present petition was filed after almost one year.



17. In my view, the constitution of the DRC by the respondent on 21.10.2022 was contrary to Schedule F. The petitioner duly informed the respondent regarding this, yet no corrective action was taken by the respondent. Thereafter, the petitioner approached the Chief Executive Engineer seeking the appointment of an arbitrator; however, there was complete silence from the respondent for nearly a year.

18. In view of the aforesaid facts, it does not lie with the respondent to contend that the petitioner has not exhausted the remedy under Clause 25. I am satisfied that the petitioner has exhausted the mechanism of Clause 25 and thereafter, approached this Court under Section 11.

19. Consequently, the petition is allowed and the following directions are issued:-

- i) Ms. Monica Batra, Advocate (Mob. 9810275950) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC').
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and



- merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.
20. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 9, 2025/sp