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

+ ARB.P. 589/2025

M/S ANIL KUMAR .....Petitioner

Through: Ms. Prachi Kohli, Advocate.

versus

DEPARTMENT OF IRRIGATION AND FLOOD CONTROL

GOVERNMENT OF NCT OF DELHI & ANR. ....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel  
(Civil), GNCTD.

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+ ARB.P. 593/2025

M/S ANIL KUMAR .....Petitioner

Through: Ms. Prachi Kohli, Advocate.

versus

DEPARTMENT OF IRRIGATION AND FLOOD CONTROL

GOVERNMENT OF NCT OF DELHI & ANR. ....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel  
(Civil), GNCTD.

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+ ARB.P. 594/2025

M/S ANIL KUMAR .....Petitioner

Through: Ms. Prachi Kohli, Advocate.

versus

DEPARTMENT OF IRRIGATION AND FLOOD CONTROL

GOVERNMENT OF NCT OF DELHI & ANR. ....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel  
(Civil), GNCTD.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

% **18.08.2025**

1. These petitions are filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking



appointment of the Sole Arbitrator to adjudicate the disputes between the parties.

2. Disputes between the parties have arisen from Letters of Acceptance issued by Respondent No. 1 in favour of the Petitioner pertaining to construction of a chain link fencing boundary wall at Malikpur Pocket-E, D and A respectively in N.G. Block, New Delhi. Formal Contracts were executed between the parties on 16.07.2019 and after work was completed by the Petitioner and Completion Certificates were issued, as per the averments in the petitions, Petitioner wrote to Respondent No. 1 for release of outstanding payments for additional/extra works as also payments under the final bills. Petitioner urges that Respondent No. 1 wrote to Respondent No. 2 admitting the extra work done and seeking release of the funds but payments were not released. After exhausting all pre-arbitration remedies, Petitioner sent notice dated 12.03.2024 invoking Arbitration Clause 25(ii) of the Contracts for appointment of the Sole Arbitrator. On failure of the Respondents to act within 30 days from the date of receipt of notice, present petitions were filed.

3. Reply has been filed on behalf of Respondent No. 1 and relying on the same, learned counsel takes an objection to the maintainability of these petitions on the ground that Petitioner has not exhausted the pre-reference mechanism, detailed in Clause 25 of the contracts. It is urged that Clause 25 provides that in case of any disputes or differences between the parties with regard to the work under the contracts or decision of Engineer-in-charge, contractor is required to request the Superintending Engineer (SE) in writing within 15 days for written instructions or decision and in case contractor is dissatisfied with the instructions or decisions of SE, the contractor may



within 15 days appeal to the Chief Engineer, who shall afford an opportunity of hearing and give his decision within 30 days from date of receipt of the appeal. If the contractor is dissatisfied with the decision of Chief Engineer, the contractor may appeal before Dispute Resolution Committee (DRC), which shall give its decision within 90 days from receipt of appeal. In the present case, pre-reference mechanism provided in Clause 25 is not exhausted by the Petitioner and hence no recourse can be taken to arbitration as a dispute resolution mechanism.

4. Responding to the preliminary objection, learned counsel for the Petitioner submits that Petitioner had taken recourse to the mechanism provided in Clause 25, however, neither the SE nor the Chief Engineer have given any decision on the claims raised by the Petitioner. In the absence of decision of the Chief Engineer, Petitioner cannot approach the DRC, even by a plain reading of Clause 25 and hence there is no impediment in taking recourse to arbitration. Learned counsel for the Respondents fairly does not dispute that no decision was taken either by SE or the Chief Engineer.

5. Having heard learned counsels for the parties, I find merit in the contention of the Petitioner that the preliminary objection of the Respondents is without substance. It is settled that where a pre-reference mechanism is agreed to by the parties, the same must be followed before invoking arbitration. This, however, cannot imply that the Claimant is required to wait endlessly for the designated officers in the arbitration clause to take a decision. In the present case, Clause 25 lays down timelines, within which SE has to take a decision and when a party is dissatisfied with the decision and approaches the Chief Engineer, the Chief Engineer is required to take a decision within 30 days and only where the contractor is



dissatisfied with the decision, he can take recourse to raising claims before DRC. Admittedly, Petitioner did raise claims before the SE as also before the Chief Engineer but neither of the two have taken a decision in the matter, as fairly conceded by counsel for Respondent No. 1. In this eventuality, there was no reason why Petitioner should have referred the disputes to DRC.

6. Accordingly, these petitions are allowed, appointing Ms. Aradhya Chaturvedi, Advocate (Mobile No.9560758007), as the Sole Arbitrator to adjudicate the disputes between the parties. Arbitral proceedings will be held under the aegis of Delhi International Arbitration Centre ('DIAC'). Fee of the Arbitrator shall be fixed as per fee schedule under DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018. The references will be considered as three separate references.

7. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

8. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

9. Petitions are disposed of in the aforesaid terms.

**JYOTI SINGH, J**

**AUGUST 18, 2025/Shivam**