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

+ **O.M.P.(I) (COMM.) 119/2025**

M/S SINGLA CABLES

.....Petitioner

Through: Mr. Kamlesh Ojha, Adv.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

07.04.2025

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I.A. 9017/2025

1. Exemption is granted subject to all just exceptions.
2. The applicant(s) shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The applications are disposed of.

O.M.P.(I) (COMM.) 119/2025

4. This is a petition filed under section 9 of the Arbitration and Conciliation Act, 1996 seeking interim measure of protection in respect to the cancellation cum recovery notice No. 000048 dated 03.01.2025 and further stay of the execution, implementation and enforcement of the said cancellation cum recovery Notice
5. The facts in brief are that the petitioner is an MSME unit engaged in the business of manufacturing cables and is a registered vendor of Indian Railway, supplying its goods to All India Railway Zone.



6. The respondent floated a tender on 12.07.2021 for the procurement of cable, in which the petitioner, being the lowest bidder, was awarded the contract. Thereafter, the respondent issued Purchase order No. 08215076206791 dated 28.10.2022 for 408.70 Kms of quad cables.
7. The petitioner supplied 98.191 km of quad cables, but was unable to supply the remaining, due to a shortage of skilled and semi-skilled labour in Jammu, attributed to the prevailing terrorist activities in the State. Further, the petitioner also informed the respondent that there was a shortage of manpower, as thousands of migrant workers are not available.
8. Thereafter, the petitioner made a representation to the respondent seeking the outstanding payment in terms of the purchase order, however, the respondent cancelled the said purchase order vide cancellation advice no. 000048 and issued a recovery notice on 03.01.2025 for a sum of Rs 35,57,817.20, imposing penalty as general damages.
9. The arbitration clause is contained as clause 2903 of Indian Railway Standard Conditions of Contract and reads as under:

“2903 Demand for Arbitration:

1) In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account, or if the Railway fails to make a decision within 120 days (as referred in 2902), then and In any such case, but except in any of the "excepted matters referred to in Clause 2902 of these Conditions, parties to the contract, after 120 days but within 180 days of their presenting their final claim on disputed matters, shall demand in writing that the dispute or difference be



referred to arbitration. Provided that where the claim is raised by Railways para 2903(1) shall not apply.

2) (a) The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, shall be referred to arbitration and other matters shall not be included in the reference,

(b) The parties may waive off the applicability of Sub-Section 12(5) of Arbitration and Conciliation Act 1996 (as amended), if they agree for such waiver in writing, after dispute having arisen between them.

3) (a) The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.

(b) The claimant shall submit his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.

(c) Respondent shall submit its defence statement and counter claim(s), if any, within a period of 60 days Of receipt of copy of claims from Tribunal, unless otherwise extension has been granted by Arbitral Tribunal.

(d) Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties.



4) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course or arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.”

10. Since there were disputes between the parties, the petitioner invoked arbitration vide legal notice dated 15.02.2025.

11. Mr. Jetly, learned CGSC has handed over a letter dated 10.03.2025 issued in response to the notice dated 15.02.2025, wherein the respondent has requested the petitioner to waive the applicability of Section 12(5) of Arbitration and Conciliation Act, 1996 in pursuance to Clause 2905 of the Indian Railway Standard (Conditions of Contract).

12. Mr. Ojha, learned counsel for the petitioner, on instructions, states that the petitioner is not willing to waive the applicability of Section 12(5) of Arbitration and Conciliation Act, 1996.

13. In the present matter, the existence of the arbitration clause is admitted. The petitioner has not agreed to waive the applicability of Section 12(5) of the Arbitration and Conciliation Act, 1996. No other defence has been raised by the respondent. Accordingly, Mr. Chirag Madan (Adv.) (Mob. No. 9999276327) is appointed as the Arbitrator to adjudicate the disputes between the parties. The following other conditions are issued:-

- I. The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the ‘DIAC’).
- II. The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators’ Fees) Rules, 2018.



- III. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- IV. 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.
- V. The parties shall approach the learned Arbitrator within two weeks from today.
14. The present petition will be treated as an application under Section 17 of the Arbitration and Conciliation Act, 1996 by the learned Arbitrator and will be disposed of by the Arbitrator expeditiously and not later than 8 weeks after entering reference.
15. With these directions, the petition is disposed of.
16. The petitioner shall also file the supporting affidavit accompanying the petition within 1 week from today.

JASMEET SINGH, J

APRIL 7, 2025/DM

Click here to check corrigendum, if any