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

+ **ARB.P. 889/2025**

NCC LIMITED

.....Petitioner

Through: Dr. Amit George, Mr. Rishabh Dheer,
Ms. Aishwarya Singh, Mr. Adhishwar Suri and
Mr. Prateek Srivastava, Advocates.

versus

HLL INFRA TECH SERVICES LIMITED

.....Respondent

Through: Mr. Tarun Johri, Mr. Ankur Gupta
and Mr. Vishwajeet Tyagi, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

18.08.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of Respondent's nominee Arbitrator in view of Arbitration Clause 25 of GCC which envisages constitution of three-member Arbitral Tribunal to adjudicate the disputes between the parties.

2. Case of the Petitioner, as set out in the petition, is that Respondent invited bids on 26.03.2018 for execution of works titled '*Design, Engineering, Procurement and Construction (EPC), including Operation and Maintenance of All India Institute of Medical Sciences at Bathinda, Punjab*'. Respondent accepted Petitioner's bid and issued Letter of Award on 08.06.2018, which was also the date of commencement of the project works. On 04.07.2018, formal contract was issued between the parties, in



which 07.06.2020 was stipulated as date of completion.

3. Petitioner avers that the project works were completed on 30.04.2022 and on 16.01.2024, Petitioner submitted its final bill to the Respondent. On 01.06.2024, Petitioner requested the Respondent for issuance of 'Certificate of Final Completion' and 'Certificate of Overall Completion', which were issued on 05.07.2024. On 07.08.2024, Petitioner submitted revised final bill as certain items were inadvertently missed out in the earlier bill, however, the bill was disputed by the Respondent and disputes having arisen, Petitioner invoked Arbitration Clause 25(i) of GCC on 31.03.2025 appointing its nominee Arbitrator. Respondent refused to appoint its nominee Arbitrator relying on Office Memorandum ('O.M.') dated 03.06.2024 issued by Ministry of Finance, Government of India, which provides that arbitration as a method of dispute resolution should not be routinely or automatically included in procurement contracts/tenders, especially in tenders, pertaining to claims exceeding Rs. 10 crores. Since Arbitrator was not appointed within 30 days from receipt of invocation notice, Petitioner filed the present petition.

4. Dr. Amit George, learned counsel for the Petitioner submits that a plain reading of paragraph 7 of O.M. dated 03.06.2024 shows that at the highest, the O.M. can have prospective effect and cannot apply to the present contract, which was executed on 04.07.2018.

5. Learned counsel for the Respondent, on instructions, submits that the question of applicability of O.M. dated 03.06.2024 be left open and without prejudice, Mr. Nand Lal Singh, Special Director General (Retd.), CPWD be appointed as Respondent's nominee Arbitrator.



6. Dr. Geroage submits that *albeit* Respondent has lost the right to nominate Arbitrator of its choice, however, to put a quietus to the controversy, Court may appoint the Arbitrator suggested by the Respondent as its nominee Arbitrator and both Arbitrators be called upon to appoint the Presiding Arbitrator in terms of the arbitration clause.

7. Accordingly, with the consent of the parties, Mr. Justice N.R.L. Nageswara Rao, former Judge of High Court of Andhra Pradesh (Mobile No. 9959377667) is appointed as nominee Arbitrator of the Petitioner and Mr. Nand Lal Singh, Special Director General (Retd.), CPWD (Mobile No. 9830121650) is appointed as nominee Arbitrator of the Respondent. The nominee Arbitrators shall appoint the Presiding Arbitrator as expeditiously as possible. Fees of the Arbitrators shall be fixed as per Fourth Schedule of 1996 Act, as agreed between the parties.

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

9. 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. Question of applicability and validity of O.M. dated 03.06.2024 is left open.

10. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

AUGUST 18, 2025

S.Sharma