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

+ **W.P.(C) 9396/2025 & CM APPL. 39670/2025**

RAILTEL CORPORATION OF INDIA LTD.Petitioner

Through: Mr. Manish Vashish (Sr. Adv) along
with Mr. Alok Singh, Mr. Jaivardhan
Jeph, Ms. Nitika Jangir, Advs.
versus

PRIMATEL FIBCOM LTD.Respondent

Through: Mr. Rohit Gandhi, Mr. Adhish
Srivastava, Ms. Akshita Nigam, Mr.
Anmol Singhal, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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09.07.2025

1. The present petition has been filed by the petitioner assailing an order dated 20.05.2025 passed by Learned Sole Arbitrator, in Case Ref. No. DIAC/8149/04-24 (PrimateL Fibcom Ltd. vs. RailTel). The order dated 20.05.2025 passed by the learned sole arbitrator reads as under:-

"1. Today the case was fixed for rejoinder arguments to conclude the proceedings of Statement of Claim.

2. But Sh. Alok Singh, Ld. Counsel for the Respondent has argued on the application dated 26.04.2025 where he stated that the counter claim be decided and heard along with the Statement of Claim.

3. Earlier the Respondent has filed counter claim along with the application for condonation of delay but the same were dismissed vide order dated IB.11.2024, by this Tribunal, being belated. The Ld. Counsel for the Respondent had challenged the order under Section 37(2)(a) before the Hon'ble High Court but the same was dismissed vide order dated 09.12.2024 with the liberty to initiate the proceedings for appointment of independent Arbitrator for adjudication of its counter claim.

4. Accordingly, the Respondent had filed an application under Section II



of the Arbitration & Conciliation Act, 1996 the Hon'ble High Court vide its order dated 22.04.2025 has allowed the application and directed the present Tribunal to decide the same to avoid the conflicting order arising out of very same arbitration agreement.

5. The Ld. Counsel for the Respondent submits that the Statement of Claim and the counter claim should be adjudicated together. On the other hand the Ld. Counsel for the Claimant submits that the same has to be treated as separate and fresh reference and be heard and decided separately.

6. After hearing both the parties, the Tribunal is of the view that rejoinder arguments on the Statement of Claim be finished on the next dates. In the meantime, the counter claim may be filed by the Respondent as a fresh reference on the pattern of the Statement of Claim to maintain the similarity. The counter claim (fresh reference) will be filed according to the claim basis and all the evidence in the form of documents may be enclosed. No oral evidence is permissible as it was not allowed in the case of the Statement of Claim of the Claimant.

7. The counter claim (fresh reference) may be filed within a period of two weeks.

8. The Award on Statement of Claim and the counter claim (fresh reference) will be written and pronounced jointly after completing the proceedings pertaining to the counter claim (fresh reference) .

9. The application dated 26.04.2025 filed by the Respondent is disposed off.

10. The matter is adjourned for rejoinder arguments to 17.07.2025, 18.07.2025 and 19.07.2025 at 4 PM to 6 PM, physically at DIAC.”

2. Learned senior counsel for the petitioner assails the aforesaid order on the ground that the same precludes adducing any oral evidence in support of its counter-claim even without considering the pleadings in the counter-claims.

3. It is submitted that the counter-claims have been considered by the learned sole arbitrator pursuant to a judgment dated 22.04.2025 passed in ARB. P. No. 2075/2024 where the counter-claims of the petitioner were referred to for adjudication by the learned sole arbitrator.



4. Undisputedly, the counter-claims have to be adjudicated in accordance with law. The learned counsel for the petitioner submits that the learned sole arbitrator ought not to have precluded the petitioner from adducing oral evidence in support of its counter-claims without even considering the pleadings of the parties with regard thereto.

5. It is noticed that the scope of interference in arbitral proceedings under Article 226/227 of the Constitution of India is extremely limited. In this regard reference is apposite to judgments rendered by the Supreme Court in ***Bhaven Constructions vs Executive Engineer, Sardar Sarovar Narmada Nigam Limited and Anr.***, (2022) 1 SCC 75; and this Court in ***Sadbhav Engineering Ltd. vs Micro and Small Enterprises Facilitation Council and Ors.***, 2025 SCC OnLine Del 319 and ***Surender Kumar Singhal and Ors. vs Arun Kumar Bhalotia and Ors.***, 2021 SCC OnLine Del 3708.

6. There can be no cavil with the proposition that the arbitral proceedings have to be conducted in accordance with the framework of Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') ; if any party has a grievance as regards infraction of any of the provisions of the A&C Act, the parties must be relegated to the prescription/remedies prescribed in the said Act. The occasion to exercise jurisdiction under Article 226 would arise only in rare and egregious situations.

7. In the circumstances of the present case, this Court is not inclined to interdict with the findings/directions contained in the order dated 20.05.2025.

8. At this stage, learned senior counsel for the petitioner confines himself to seeking that after the pleadings of the counter-claims are completed, the petitioner be granted liberty to once again request the learned sole arbitrator to consider whether adducing of any oral evidence is warranted, considering



the facts and the circumstances.

9. Needless to say, the petitioner is not precluded from making any such request to the learned sole arbitrator, which shall be considered by the learned sole arbitrator on its own merit. Necessarily, the learned sole arbitrator would consider all the aspects of the matter including those highlighted by the petitioner in the present petition.

10. In the circumstances, the present petition is dismissed, while granting the aforesaid liberty to the petitioner. Pending application also stands disposed of.

SACHIN DATTA, J

JULY 9, 2025/at