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

+ O.M.P. (T) (COMM.) 67/2025& I.A. 17982/2025

M/S KULDEEP KUMAR CONTRACTORPetitioner

Through: Mr. Shashank Garg, Sr. Adv. with
Mr. Aman Gupta; Ms. Divya Gupta; Mr. Anup
Kashyap; Ms. Aradhya Chaturvedi; Ms. Nishtha
Jain, Advs.

versus

WAPCOS LIMITED AND ANRRespondents

Through: None

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **08.09.2025**

1. This is a petition filed under Section 14 read with Section 12(5) of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") seeking termination of the mandate of the Sole Arbitrator in Arbitration Case Ref. No. 10 of 2024 titled as "*M/s Kuldeep Kumar Contractor vs. M/s WAPCOS Ltd. & Ors.*".
2. The facts are that the petitioner and the respondent No.1, acting as an agent of the respondent No.2, entered into an Agreement dated 30.05.2020 for "Construction of Academic Block at CIPET Baddi, Himachal Pradesh" ("**Agreement**") and some additional work.
3. The said Agreement contains an arbitration clause being Clause No. 56(e), which reads as under:-

"e. It is also acknowledged and accepted that WAPCOS is only working as intermediary between the Associate/ Sub-Consultant/Sub-Contractor and the Principal Employer/ Client, thus in the event, any dispute arises under the present agreement and referred to Arbitration for adjudication, then subject to corresponding clause in the Contract/Agreement/



Work Order/ Arrangement between Principal Employer/Client & WAPCOS, Principal Employer/ Client shall also be made party to the said Arbitration proceedings. Also, the award including costs if any passed against WAPCOS and costs incurred in the proceedings shall be the sole responsibility of Principal Employer/Client. The said clause if found inapplicable, even then the other terms of the Arbitration Clause shall survive and shall be acted. Upon.”

4. Since disputes arose between the parties, on 22.11.2024, the respondent No.1 proposed a panel of three Arbitrators. The petitioner gave consent for appointment of Mr. VK Maheshwari, Ex. Principal Judge, Family Court, Rohini Delhi as the Sole Arbitrator from the said panel.
5. The petitioner proceeded with the arbitration. However, it is stated that the Sole Arbitrator by his conduct rendered himself *de fact* and *de jure* unable to perform his functions as an independent and impartial Arbitrator. Hence, the petitioner filed the present petition.
6. Mr. Gupta, learned counsel for the petitioner states that, in the present case, the Sole Arbitrator is appointed from a panel of three Arbitrators proposed by the respondent No. 1. It is stated that although the petitioner exercised the option of suggesting the name out of the panel, however, the same is still contrary to the law as laid down by the Hon'ble Supreme Court in ***Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV) (2025) 4 SCC 641***.
7. I am in agreement with the submission made by the learned counsel for the petitioner. Respondent No. 1 asking the petitioner to choose an Arbitrator out of a panel of three Arbitrators provided by it is contrary to the judgment of ***Central Organisation for Railway Electrification***



(supra), wherein the Hon'ble Supreme Court clearly held that clauses allowing one party to curate a panel of Arbitrators from which the other party must select are invalid.

8. Additionally, on last date of hearing i.e. 29.07.2025, notice was accepted by the learned counsels for respondent Nos. 1 and 2 respectively. However, neither is anybody appearing on behalf of the respondent Nos. 1 and 2 today in the Court nor any reply has been placed on record by the respondent Nos. 1 and 2.
9. For the said reasons, the petition is allowed with the following directions:-
 - i) Ms. Shalinder Kaur (Retd. Judge Delhi High Court) (Mob. No.9910384702) 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 1996 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 petitioner shall approach the learned Arbitrator within two weeks from today.
10. The present petition is disposed of in the aforesaid terms.

SEPTEMBER 8, 2025 / (MS)

JASMEET SINGH, J