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

+ **O.M.P.(I) (COMM.) 371/2025**

AFCONS INFRASTRUCTURE LIMITED

.....Petitioner

Through: Mr. Darpan Wadhwa, Sr. Advocate
with Mr. Abhishek Birthray, Mr. Kartikeya
Tripathi and Ms. Aiswarya Sahu, Advocates with
Ms. Stuti Srimali, A.R. of Petitioner.

versus

**MINISTRY OF ROAD TRANSPORT AND
HIGHWAYS**

.....Respondent

Through: Mr. Ankur Mittal, CGSC with Mr.
Alok Kumar Jain, Mr. Ashok Gurnani and Ms.
Rabaica Jaiswal, Advocates.

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

ORDER
16.09.2025

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I.A. 22456/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This petition is filed on behalf of the Petitioner under Section 9 of Arbitration and Conciliation Act, 1996 ('1996 Act') seeking the following interim relief:-

"a) Direct the Respondent to maintain status quo and not act in furtherance of the communications dated 12.06.2024, 21.02.2025 and 30.08.2025 until the disputes and differences are finally settled by way of the arbitration."



4. Issue notice.
5. Mr. Ankur Mittal, learned Central Government Standing Counsel accepts notice on behalf of the Respondent.
6. Disputes between the parties arise in respect of an EPC Contract for construction of a four-lane bridge across River Kosi at Phulaut, Bihar, awarded vide Letter of Acceptance dated 04.01.2021. It is the case of the Petitioner that it has diligently executed the works and achieved more than 79% physical and financial progress, however, delays occurred for reasons beyond the control of the Petitioner. Multiple applications for extension of time were made to the Respondent and were recommended by the Authority's Engineer owing to the fact that Petitioner cannot be blamed for the delay. However, Respondent imposed pre-conditions, including waiver of claims and also communicated that it was reserving its right for recovery of liquidated damages, which is illegal and arbitrary. Additionally, Respondent is also seeking to recover Rs. 56.79 crores from the pending running account bills of the Petitioner, despite the fact that Petitioner has sent notice invoking arbitration on 16.01.2025.
7. Mr. Ankur Mittal appearing for the Respondent submits that the averments and allegations in the petition are incorrect and without basis. Be that as it may, Respondent has nominated its Arbitrator for adjudication of the disputes between the parties. Mr. Wadhwa, learned Senior Counsel for the Petitioner submits that Petitioner has also nominated its Arbitrator and petition can be disposed of with a direction to the nominee Arbitrators to appoint a Presiding Arbitrator. It is agreed between the parties that this petition be treated as an application under Section 17 of 1996 Act and decided at the earliest.



8. Accordingly, with the consent of the parties, Shri N.K. Sinha, Director General (RD) and Special Secretary, MoRTH (Retd.) (Mobile No. 9891060052) is appointed as nominee Arbitrator of the Petitioner and Shri Bhesha Nand Singh, Director General (RD) and Special Secretary, MoRTH (Retd.) (Mobile No. 9999386888) is appointed as nominee Arbitrator of the Respondent. The nominee Arbitrators shall appoint the Presiding Arbitrator within a period of two weeks from today to constitute a three-member Arbitral Tribunal in consonance with Clause 26.3 of the EPC Agreement dated 12.02.2021.

9. The Arbitrators shall give a disclosure under Section 12 of 1996 Act before entering upon reference.

10. The Arbitral Tribunal shall treat this petition as an application under Section 17 of 1996 Act and make an endeavour to consider the same as expeditiously as possible, considering the nature of relief sought by the Petitioner. Registry shall transmit the digital records of this petition to the Arbitral Tribunal within two weeks from today.

11. 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.

12. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 16, 2025

S.Sharma