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

+ **ARB.P. 1484/2025**

**M/S KAMLADITYYA CONSTRUCTION PVT
LTD**

.....Petitioner

Through: Mr. Avinash Trivedi and Mr. Rahul
Aggarwal, Advocates.

versus

**CENTRAL PUBLIC WORKS DEPARTMENT CONSTRUCTION
DIVISION III THROUGH ITS ADDL DIRECTOR
GENERAL**

.....Respondent

Through: Ms. Iram Majid, CGSC with Mr.
Mohd. Suboor, Advocate.

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

ORDER
23.09.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of the Nominee Arbitrator of the Respondent.
2. Disputes between the parties emanate from Letter of Acceptance dated 27.03.2018 issued by the Respondent in favour of the Petitioner for the work of setting up physical infrastructure for National Institute of Communication Finance at Ghitorni, New Delhi. Petitioner urges that it had started the work in the right earnest to complete the same within the stipulated period of completion, however, Respondent was unable to provide a hindrance free site and Petitioner had to seek extension from time to time, which was granted by the Respondent.



3. It is averred that Respondent issued show cause notice dated 24.01.2022 under Clause 2 of the Agreement and while the Petitioner gave a satisfactory reply denying all allegations of delay, Respondent illegally imposed a penalty of Rs.13,46,75,581/-, which was challenged by the Petitioner in arbitration proceeding resulting in an arbitral award dated 21.06.2024 modified on 23.06.2024 in favour of the Petitioner, whereby a sum of Rs.11,94,58,903/- was awarded along with interest and penalty was set aside. Petition under Section 34 of 1996 Act was filed by the Respondent challenging the award, being O.M.P (COMM.) 472/2024, which is pending in this Court.

4. It is further averred that on substantial completion of the original work, parties entered into a Supplementary Agreement dated 11.04.2022 and while the Petitioner continued to execute the work despite hindrances, Respondent again issued show cause notice dated 28.01.2025 to which the Petitioner replied on 03.02.2025, however, in utter disregard of contractual terms, Respondent determined the contract under Clause 3 of GCC vide letter dated 09.05.2025 and forfeited the security deposit. In light of these disputes, Petitioner called upon the Respondent to constitute DRC to resolve the disputes as per pre-reference mechanism envisaged in the dispute resolution clause. However, the DRC was not constituted and Petitioner sent a notice invoking arbitration on 17.07.2025 proposing the name of its Nominee Arbitrator and calling upon the Respondent to nominate its Arbitrator since Clause 25 of GCC envisages arbitration by three-member Arbitral Tribunal. There was no response from the Respondent and since Respondent has failed to nominate its Arbitrator within 30 days from the date of receipt of the notice, it is urged that this Court may appoint the



Nominee Arbitrator of the Respondent.

5. Ms. Iram Majid, learned CGSC appearing on behalf of the Respondent, on instructions, does not dispute the existence of the arbitration agreement *albeit* she insists that the Nominee Arbitrator of the Respondent must be of the choice of the Respondent. Counsel for the Petitioner, on the other hand, submits that having failed to appoint the Nominee Arbitrator, when called upon to do so, within the period of 30 days, Respondent cannot now assert a right to nominate an Arbitrator of its choice.

6. Having heard learned counsels for the parties, I find merit in the contention of the counsel for the Petitioner that Respondent has lost its right to choose the Nominee Arbitrator of its choice. Existence of the arbitration agreement is not in dispute. Accordingly, this petition is allowed nominating Sh. Shashi Kant, (Retd.) SDG & E-in-C, PWD, Delhi (Mobile No. 9560704965) as Nominee Arbitrator of the Respondent. Sh. Sunil Kumar Garg, (Retd.) Director General (Planning), CPWD (Mobile Nos. 9868877300, 8800290839) is appointed as Nominee Arbitrator of the Petitioner, as proposed in consonance with Clause 25(ii) of GCC. The two Nominee Arbitrators will appoint the Presiding Arbitrator as expeditiously as possible and not later than four weeks from today.

7. Arbitration proceedings will be held under the aegis of Delhi International Arbitration Centre ('DIAC') and as per its Rules. Fee of the Arbitrators shall be fixed as per fee schedule of DIAC (Administrative Cost & Arbitrators' Fees) Rules, 2018.

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.

10. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 23, 2025/YA