



\$~87

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

+ **ARB.P. 1790/2025**

M/S KBG ENGINEERS

.....Petitioner

Through: Mr. Avinash Trivedi, Mr. Rahul Aggarwal, Advs.

versus

PUBLIC WORKS DEPARTMENT GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Manashwy Jha, Panel Counsel (Civil), GNCTD

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

30.10.2025

%

I.A. 26621/2025 (Exemption)

Allowed, subject to all just exceptions.

ARB.P. 1790/2025

1. The instant petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 has been filed by the Petitioner for appointment of an Arbitrator to adjudicate the disputes which have arisen between the parties.
2. Material on record indicates that a contract was awarded by the Respondent to the Petitioner for construction of additional SPS classrooms in existing premises of Govt. School of Directorate of Education, GNCTD under (Priority-II) SH: C/o 204 Nos. of additional SPS classrooms including Labs, M.P. Hall, Toilets and Staircases, internal water supply, sanitary installations, drainage, electrical installation, development of site and



firefighting arrangements etc. at GBSSS, Prashant Vihar (ID-1413016) and Govt. Co-ed Sr. Sec. School Sector-08, Rohini Delhi (ID-1413027 (Package-V).

3. It is stated that the parties entered into an agreement being 14/EE/PWD/Edu(M)(NW)/2018-19 for execution of the work. It is stated that after the completion of work by the Petitioner, a completion certificate was issued by the Respondent on 24.02.2022.

4. It is stated that since there was a dispute regarding payment of certain outstanding dues amounting to Rs.21,72,12,056.43/-, the Petitioner approached the Respondent for constitution of Dispute Resolution Committee (DRC) or for appointment of an Arbitrator to adjudicate the disputes. It is stated that since the Respondent did not reply to the said notice, the Petitioner has approached this Court by filing the instant petition for appointment of an Arbitrator.

5. Clause 25 of the General Clauses of Contract of the Agreement which contains an arbitration clause, reads as under:-

“CLAUSE 25

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:



(i) If If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge or if the Engineer in Charge considers any act or decision of the contractor on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable and is disputed, such party shall promptly within 15 days of the arising of the disputes request the Chief Engineer or where there is no Chief Engineer, the Additional Director General (CE/ADG) who shall refer the disputes to Dispute Redressal Committee (DRC) within 15 days along with a list of disputes with amounts claimed if any in respect of each such dispute. The Dispute Redressal Committee (DRC) shall give the opposing party two weeks for a written response, and, give its decision within a period of 60 days extendable by 30 days by consent of both the parties from the receipt of reference from CE/ADG. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule 'F'. Provided that no party shall be represented before the Dispute Redressal Committee by an advocate/legal counsel etc.

If the Dispute Redressal Committee (DRC) fails to give its decision within the aforesaid period or any party is dissatisfied with the decision of Dispute Redressal Committee (DRC) or expiry of time limit given above, then either party may within a period of 30 days from the receipt of the decision of Dispute Redressal Committee (DRC), give notice to the Chief Engineer, CPWD, in charge of the work or if there be no Chief Engineer, the Additional Director General of the concerned region of CPWD or if there be no Additional Director General, the Director General, CPWD (CE/ADG/DG) for appointment of arbitrator on prescribed proforma as per Appendix XV under



intimation to the other party.

It is a term of contract that each party invoking arbitration must exhaust the aforesaid mechanism of settlement of claims/disputes prior to invoking arbitration.

The CE/ADG/DG shall in such case appoint the sole arbitrator or one of the three arbitrators as the case may be within 30 days of receipt of such a request and refer such disputes to arbitration. Wherever the Arbitral Tribunal consists of three Arbitrators, the contractor shall appoint one arbitrator within 30 days of making request for arbitration or of receipt of request by Engineer-in-charge to CE/ADG/DG for appointment of arbitrator, as the case may be, and two appointed arbitrators shall appoint the third arbitrator who shall act as the Presiding Arbitrator.

In the event of

- a. A party fails to appoint the second Arbitrator, or*
- b. The two appointed Arbitrators fail to appoint the Presiding Arbitrator, then*

The Director General, CPWD shall appoint the second or Presiding Arbitrator as the case may be.

(ii) Disputes or difference shall be referred for adjudication through arbitration by a Tribunal having sole arbitrator where Tendered amount is Rs. 100 Crore or less. Where Tendered Value is more than Rs. 100 Crore, Tribunal shall consist of three Arbitrators as above. The requirements of the Arbitration and Conciliation Act, 1996 (26 of 1996) and any further statutory modifications or re-enactment thereof and the rules made there under and for the time being in force shall be applicable.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts



claimed, if any, in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the decision of the DRC.

It is also a term of this contract that any member of the Arbitration Tribunal shall be a Graduate Engineer with experience in handling public works engineering contracts at a level not lower than Chief Engineer (Joint Secretary level of Government of India). This shall be treated as a mandatory qualification to be appointed as arbitrator.

Parties, before or at the time of appointment of Arbitral Tribunal may agree in writing for fast track arbitration as per the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015.

Subject to provision in the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015 whereby the counter claims if any can be directly filed before the arbitrator without any requirement of reference by the appointing authority, the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs. 1,00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator, these shall be paid as per the Act.

The place of arbitration shall be as mentioned in Schedule F. In case there is no mention of place of arbitration, the arbitral tribunal shall determine the place of arbitration.

The venue of the arbitration shall be such place as



may be fixed by the Arbitral Tribunal in consultation with both the parties. Failing any such agreement, then the Arbitral Tribunal shall decide the venue. ”

6. During the course of hearing, respective Counsel for the parties jointly request that an independent Sole Arbitrator be appointed to adjudicate the disputes between the parties.
7. Accordingly, Mr. Sunil Kumar Garg, DG, CPWD (Adv.) (Mob. No. 9868877300/8800290839) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.
8. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.
9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.
10. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
11. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.
12. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

OCTOBER 30, 2025

hsk