



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 1939/2025**
M/S RAMACIVIL INDIA CONSTRUCTION PVT LTDPetitioner
Through: Mr. Avinash Trivedi and Mr. Rishank
Gola, Advs.
versus
M/S WAPCOS LIMITEDRespondent
Through: Mr. Tushar Sannu, Mr. Fajallu
Rehman, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH
ORDER
% **10.12.2025**

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties.
2. The brief facts of the case are that the petitioner is a Contractor, who participated in the tender floated by the respondent for "Engineering Procurement and Construction of the National Institute of Unani Medicine (NIUM), Ghaziabad." The petitioner was declared as the successful bidder and was subsequently awarded the Contract *vide* a formal Agreement No. WAP/RD/NIUM/2018/EPC/dated24.07.2018.
3. The Agreement was governed by the Clause 55 and 56 of the General Conditions of Contract (GCC), which read as under:

"Clause 55: Dispute Resolution

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, 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:

- If the EPC 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 on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request Engineer in Charge in writing for written instruction or decisions. Thereupon, the Engineer in Charge shall give his written instructions or decision within a period of one month from the receipt of the EPC Contractor's letter.*
- If the Engineer in Charge fails to give his instructions or decision in writing within the aforesaid period or if the EPC Contractor is dissatisfied with the instructions or decision of the Engineer in Charge, the EPC Contractor may, within 15 days of the receipt of decision, appeal to the Executive Director, WAPCOS Limited who shall afford an opportunity to the EPC Contractor to be heard, if the latter so desires, and to offer*



evidence in support of his appeal. The Executive Director WAPCOS Limited shall give his decision within 45 days after the EPC Contractor submits the said evidence in support of his appeal. If the EPC Contractor is dissatisfied with this decision of Executive Director, WAPCOS Limited, the EPC Contractor shall within a period of 15 days from receipt of the decision of Executive Director, WAPCOS Limited, shall give notice to WAPCOS Limited intimating its dissatisfaction, failing which the decision of Executive Director, WAPCOS Limited shall be final, binding and conclusive and not referable to adjudication by the arbitration.

- *In case the EPC Contractor is not satisfied with the decision of Executive Director, WAPCOS, he may proceed for arbitration as detailed in Clause 56 of Part A of GCC given herein after.*

56: Arbitration

- *All disputes or differences which may arise between the EPC Consultant and the EPC Contractor/ Contractor in connection with this Contract (other than those in respect of which the decision is expressed in the Contract to be final and binding) shall after written notice by either party to the other and request to the Chairman cum Managing Director of WAPCOS Limited (who will be the appointing authority) be referred for adjudication to the sole Arbitrator to be appointed as hereinafter provided.*
- *The appointing authority (CMD, WAPCOS Limited) will send within ninety (90) days of receipt of the notice of arbitration a*



panel of three names of persons, not directly connected with the work, to the EPC Contractor/ Contractor who will select any one of the persons named to be appointed as a sole Arbitrator within 30 days of receipt of the names. If the appointing authority (CMD, WAPCOS Limited) fails to send to the contractor/ EPC Contractor the 3 names as aforesaid within the period specified, the EPC Contractor/ contractor shall be entitled to invoke the provisions of the Indian Arbitration and Conciliation Act 1996 as amended from time to time.”

4. Since there were disputes, the petitioner duly complied with the Arbitral mechanism envisaged under the clauses of GCC and thereafter invoked arbitration *vide* legal notices dated 13.02.2025 and 15.02.2025.

5. Subsequently, two meetings were held between the representatives of the parties to arrive at an amicable resolution on 14.02.2025 and 08.03.2025, respectively. On 29.04.2025, the petitioner in fact wrote a letter to the Chairman cum Managing Director to keep the legal notices invoking arbitration dated 13.02.2025 and 15.02.2025 in abeyance for six weeks. Since, no resolution was arrived at and no payment was made, the petitioner has filed the present petition.

6. On the first date of hearing, Mr. Sannu, learned counsel for the respondent, had accepted notice and sought time to file a reply. He has handed over the reply in Court today which is taken on record.

7. I have perused the reply and the only objection raised is preliminary in nature, which reads as under:

“It is submitted that there is no provision in law or contractual clause in Contract Agreement between parties



which stipulates for 'holding of invocation of arbitration'. Thus, once the invocation did not succeed due to settlement talks/ exploring of amicable ways to settle, then the Petitioner herein has to comply with pre-arbitration steps as mandated in Clause 55 before directly invoking Clause 56 after the pause/hold.”

8. A perusal of the reply shows that the stand of the respondent is that once the invocation did not succeed due to settlement talks or exploring amicable ways to settle the dispute between the parties, the petitioner again has to comply with the pre-arbitration steps.

9. I am unable to agree with the aforesaid stand. The letter dated 29.04.2025 only kept the notice in abeyance and was revived on 18.06.2025. The letters read as under:



Document No. 10

By Speed Post & E-mail 29

RAMACIVIL INDIA CONSTRUCTION PVT. LTD



(Formerly known as Rama Construction Co.)

CIN No. U45309DL2017PTC322038

Corporate Office: BP-22, West Patel Nagar
New Delhi -110008

Dated: **29.04.2025**

To
Chairman cum Managing Director
WAPCOS LIMITED,
5th Floor, Kailash Building,
26, Kasturba Gandhi Marg,
New Delhi - 110001

Name of Work: Engineering, Procurement and Construction of National Institute of Unani
Medicine (NIUM), Ghaziabad, Uttar Pradesh

Agreement No.: **WAP/RD/NIUM/2018/EPC/dated 25.06.2018**

Subject: - Resolution for long pending legitimate due & interest

Dear Sir,

This is with reference to the following:

- Our Notices to the competent authorities, Deputy chief Engineer and Chief Executive Director WAPCOS Ltd under Clause 55 submitted vide letter **dated 27.12.2024 & 27.01.2025** respectively for settlement of our claims for Rs 88,20,94,860/- plus interests and GST etc.
- Our Notice under Clause 56 of the Contract for appointment of Arbitrator, submitted vide our letter **dated 13.02.2025**.

With respect to above issue related to long pending legitimate dues, subsequently a meeting was held on dated 14th feb 2025 & further on 8th march 2025 between Dr Aman Sharma (Chief Executive Director) & Sh. Charush (Deputy chief engineer) representing WAPCOS and M/s Ramacivil India Construction Pvt. Ltd. Represented by Sh. Parveen Gupta to resolve our above-mentioned claims (Annexure-A) as per contract provisions with amicable resolution and mutual discussions.

During the meeting, it was mutually agreed that: -

(i) WAPCOS shall forward our claim pertaining to extra plinth areas executed as per approved GFC drawings and other claims to the Ministry of AYUSH (Owner) for their consideration for approval for release our payments.

(ii) WAPCOS agreed to immediately release balance payment of our accepted final bill already submitted on 03.06.2023 for undisputed items for which invoices are already submitted and GST already deposited by us has been reflected on GST online Portal & the WAPCOS has already availed GST input credit without releasing the corresponding payment to us, the details of Invoices are below



- a. Invoice No. RICPLNIUM/28/5, which was generated and submitted by us (amounting to Rs 5,90,00,000/- including 18% GST i.e., Rs 90,00,000/-) in your office on 03.11.2023
- b. Invoice No. RICPLNIUM/24/2 dated 11.02.2025) for the balance amount of Rs 8,47,79,736/- + Rs 1,52,60,352 (GST)= Rs 10,00,40,088/-

iii. If our agreed payments and our other claims not decided then we are free to continue with process of settlement of disputes as per contract clauses 55 & 56 provided under the contract in further continuation to our Notice under Clause 56 of the Contract for appointment of Arbitrator, submitted to you vide our letter dated 13.02.2025

Similarly in response to the above Ramacivil India Construction Pvt Ltd shall also hold the above Notices under contract Clause 55 and 56 as per above agreed conditions.

Without prejudice and in good faith of contract provision we undertake that our above-mentioned notices under clause 55 & 56 shall be treated as withheld for a reasonable time of 6 weeks, as requested by the WAPCOS

Therefore, we respectfully request you to ensure the release of our due payments as above

We seek your kind cooperation in this regard and look forward to a positive response at the earliest please to minimise the liability of Ex-chequers.

With Regards,

(Chairman-cum-Managing Director,
Ramacivil India Construction Pvt. Ltd.

Dated: 29.04.2025



Document No. 12 By Speed Post & E-mail 30

RAMACIVIL INDIA CONSTRUCTION PVT. LTD



(Formerly known as Rama Construction Co.)

CIN No. U45309DL2017PTC322038

Corporate Office: BP-22, West Patel Nagar

New Delhi -110008

Dated: 18.06.2025

To
Chairman cum Managing Director
WAPCOS LIMITED,
5th Floor, Kailash Building,
26, Kasturba Gandhi Marg,
New Delhi – 110001
cmd@wapcos.co.in.

Name of Work: Engineering Procurement and Construction of National Institute of Unani Medicine Ghaziabad Uttar Pradesh.

Agreement No: WAP/RD/NIUM/2018/EPC

Subject: Notice under Clause 56 of the Contract for appointment of Arbitrator

Ref: Our letter dated 15.02.2025 regarding Notice under Clause 56 of the Contract for appointment of Arbitrator

Dear Sir,

This is with respect to our above referenced letter dated 29.04.2025 and our earlier letters dated 27.12.2024 and 27.01.2025 submitted under Clause 55, and our notice dated 13.02.2025 & 15.02.2025 (Full addresses of Arbitrators were conveyed in continuation of notice dated 13.02.2025), under Clause 56 of the contract, seeking settlement of our legitimate dues amounting to ₹88.21 crore plus GST and interest.

Following those notices, two meetings were held on 14.02.2025 and 08.03.2025 between WAPCOS representatives and our company, M/s Ramacivil India Construction Pvt. Ltd., to discuss an amicable resolution. It was mutually agreed that:

1. WAPCOS would forward our claims, including extra plinth area executed as per approved drawings, to the Ministry of AYUSH for approval.
2. WAPCOS would immediately release our undisputed final bill payments, for which invoices have been submitted and GST input credit already availed by WAPCOS:

- Invoice No. RICPL/NIUM/26/6 dated 03.11.2023 – ₹5.90 crore (incl. GST)
- Invoice No. RICPL/NIUM/24/2 dated 11.02.2025 – ₹10.00 crore (incl. GST)



After elapsing considerable time and no concrete action had been taken by WAPCOS balance payment of GST and our legitimate claims, we served reminder on 06.05.2025. After that only Rs 5.90 crore, against invoice raised on 03.11.2023 could be, released in four parts and last payment of Rs 90 lakh received on 09.05.2025.

Again, we served 2nd reminder on 26.05.2025 for release of balance payment against the invoice No. **RICPL/NIUM/24/2 dated 11.02.2025 – ₹10.00 crore (incl. GST)**. But you have not given any heed to our request and ignored promises made by your good self in said meetings.

We are incurring heavy interests @ 18% p.a which ultimately to be borne by WAPCOS due to non-payment of legitimate dues. However, the continued delay from WAPCOS has led to mounting interest and is putting serious financial pressure on us.

Without prejudice and in good faith, to maintain cordial relations with the department as a gesture of goodwill and based on your commitment, we had agreed to temporarily withhold further action under Clauses 55 and 56 for a period of six weeks, as requested by WAPCOS. Accordingly, we had requested the release of our pending payments vide our letter dated 29.04.2025 and subsequent reminders dated 06.05.2025 and 26.05.2025, relying on your assurance of timely resolution. However, you have failed to honour your commitment to release the said payments.

However, since the agreed payments are still pending and a period of 90 days, as prescribed under Clause 56, has elapsed thereby requiring the Appointing Authority (CMD, WAPCOS) to issue a panel of three names for selection of a Sole Arbitrator, we hereby invoke the provisions of the Arbitration and Conciliation Act, 1996. In this regard, we are submitting our own panel of Arbitrators, duly empanelled with the Delhi International Arbitration Centre (DIAC) and India International Arbitration Centre (IIAC), and request you to appoint any one of them as the Sole Arbitrator for adjudication of the disputes within 15 days.

We are informing addresses and contact numbers of arbitrators suggested by us in previous letter dated 15.06.2025 except Sl. No.5 wherein, Er. Parabhakar Singh Former DG, CPWD has been added in place of Sh Rakesh Agarwal Former SDG, empaneled with Delhi International Arbitration Centre (DIAC) and it is requested that any one of them may kindly be appointed as sole arbitrator for adjudication of disputes.



Sl. No.	Name of Arbitrators	Address	Phone Number & Email
1	Sh. Vinod Kumar Malik/07.01.1958/ Former SDG, CPWD.	H N.712,Asiad Village, August Kranti Marg, New Delhi-110049	9818232555 (Regd. in DIAC)
2	Sh. Dinesh Kumar/23.01.1955/ Former E-in-C, PWD	533,Pocket- E,MeyurVihar, Phase- II,New Delhi-110091	9810718585 (Regd. in DIAC)
3	Sh. Anant Kumar Former SDG, CPWD/ E-in-C	B-6, Tower -A1, Type - 7 DDU Marg - 110002	M- 9911178856 anant_in@yahoo.com (Regd. in DIAC)
4	Sh. Rakesh Misra/01.01.1953/ Former DG, CPWD.	B1/501, Lotus Road,2A- VaibhavKhand, Indirapuram, Ghaziabad UP-201014	0120-4082302 / 9958334545 garmishra@yahoo.com (Regd. in DIAC)
5	Er. Prabhakar Singh Former DG, CPWD.	House No. EF 6B Tata Primanti Garden Estate, Sector-72, Gurgaon-122101, Haryana, India	9818059776 prabhakardelhi@yahoo.com (Regd. in IAC)

We look forward to your prompt response and cooperation.

With regards,

For Ramacivil India Construction Pvt. Ltd.


Authorized Signatory
Copy to:



1. Sh Aman Sharma, Chief Executive Director, WAPCOS, Gurugram for information please. Email: amansharma.wapcos@gmail.com

2. Sh Charush, Deputy Chief Engineer, WAPCOS, Gurugram for information and kind necessary action please. Email: charush0018@gmail.com

Regd. Office: BP-22, West Patel Nagar, Delhi - 110008

Email : ramacivilindia@gmail.com, ramacivilconstruction@gmail.com



10. It is not a case where, the holding of settlement talks would negate the entire process of pre-arbitral mechanism as well as notice invoking arbitration. There is no such provision either under the Arbitration and Conciliation Act, 1996 or the Contract governing the parties.

11. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Ms. Abhimanyu Mahajan (Advocate) (Mob. No. 9811103447) 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 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 parties shall approach the learned Arbitrator within two weeks from today.



12. The present petition is disposed of in the aforesaid terms.

DECEMBER 10, 2025/AS

JASMEET SINGH, J