

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

**RESERVED ON: 04.02.2026
DELIVERED ON: 11.03.2026**

PRESENT:

THE HON'BLE MR. JUSTICE GAURANG KANTH

AP 2 OF 2025

M/S SANKAT MOCHAN ENTERPRISES

VERSUS

UNION OF INDIA

Appearance: -

Mr. Pratip Mukherjee, Adv.

..... **for the Petitioner**

Mr. Sunil Kr. Singhania, Adv.

Ms. Priti Jain, Adv.

..... **for the Respondent**

JUDGMENT

Gaurang Kanth, J. :-

- 1.** The present Petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996, challenging the Arbitral Award dated 26.06.2024 and the Corrigendum dated 06.09.2024 passed by the learned Sole Arbitrator, Mr. Mihir Kumar Das. By the said Award, the learned Arbitrator rejected the claims preferred by the Petitioner and allowed the counterclaim filed by the Respondent.
- 2.** The facts giving rise to the present Petition are briefly set out hereinbelow.
- 3.** The Respondent issued E-Tender Notice No. 17/EL/WT/2017-18 dated 08.02.2018 for the work titled: *“Part A – Provision of one additional High*

Mast Tower at Coaching Yard/TATA (near S/neck at BMPR end); Part B – Improvement of power supply arrangement at C&W sick line/ADTP.” The Petitioner, having emerged as the L-1 bidder, was awarded the said work vide Letter of Acceptance No. 17/EL/WT/2017-18/SME dated 09.07.2018. Thereafter, a formal Agreement being No. 03/2018-19/Agt/SME dated 09.10.2018 was executed between the parties.

4. The Petitioner commenced the work on 10.10.2018. In terms of the Agreement, the stipulated period for completion was six months, i.e., up to 08.01.2019. Admittedly, the work was not completed within the stipulated time. The Respondent, however, granted extension of time for completion of the work up to 30.03.2021 without imposition of penalty. Despite such extension, the work remained incomplete, and consequently, the Respondent terminated the contract vide letter dated 06.04.2021.
5. By letter dated 17.05.2021, the Petitioner invoked the arbitration clause and requested the General Manager of South Eastern Railway to appoint an Arbitrator. As no steps were taken in this regard, the Petitioner issued a legal notice dated 27.12.2021 furnishing the details of its alleged outstanding dues and calling upon the Respondent to make payment thereof.
6. Owing to the failure of the Respondent's General Manager to appoint an Arbitrator, the Petitioner filed Arbitration Petition No. 493 of 2022 before this Hon'ble Court under Section 11 of the Arbitration and Conciliation Act, 1996. By order dated 12.08.2022, this Hon'ble Court appointed Mr. Mihir Kumar Das, Advocate, Bar Association Room No. 2, High Court at Calcutta, as the Sole Arbitrator to adjudicate the disputes between the parties.

- 7.** The Petitioner filed its Statement of Claim comprising ten claims aggregating to Rs. 16,09,350/-. The Respondent contested the claims in entirety and preferred a counterclaim amounting to Rs. 2,59,708.63/-.
- 8.** Upon completion of pleadings, the learned Sole Arbitrator framed the following issues for determination:
- (i) Whether the agreement dated 09.10.2018 executed pursuant to the e-tender is legal and valid?
 - (ii) Whether the termination of the contract by the Respondent–Railway is legal and valid?
 - (iii) Whether the Claimant is entitled to the claims as prayed for in the Statement of Claim?
 - (iv) Whether the Respondent–Railway suffered loss and damages due to breach committed by the Claimant and, if so, whether it is entitled to the counterclaim as prayed for?
 - (v) To what other reliefs, if any, are the parties entitled?
- 9.** Issue No. (i) was not pressed by either party before the learned Arbitrator. The learned Arbitrator considered the remaining issues together and came to the finding that the Petitioner had abandoned approximately 5% of the contractual work and, despite repeated requests from the Respondent, failed to complete the same. On such finding, the learned Arbitrator held that the Respondent had validly terminated the contract. Consequently, the learned Arbitrator rejected all claims of the Petitioner, including claims for refund of Security Deposit and Performance Bank Guarantee.
- 10.** The learned Arbitrator further recorded that the Respondent had incurred an additional expenditure of Rs. 2,59,708.63/- towards procurement of an outdoor type 11/0.4 KV, 500 KVA transformer (relating to Item No. 1 of

Part B of Schedule 1–Supply) under Purchase Order No. GB225047100092 dated 10.08.2022. In view of the Petitioner's failure to complete the balance 5% of the work, including supply and installation of the transformer, the learned Arbitrator held that the Respondent was entitled to recover the said amount by way of counterclaim.

- 11.** Accordingly, by Award dated 26.06.2024, the learned Sole Arbitrator rejected all claims of the Petitioner and allowed the Respondent's counterclaim for Rs. 2,59,708.63/-. It was further directed that, in the event the Petitioner failed to pay the said amount within one month from the date of the Award, the Respondent would be entitled to interest at the rate of 12% per annum until realisation.
- 12.** Subsequently, upon an application filed by the Petitioner under Section 33 of the Arbitration and Conciliation Act, 1996 pointing out a typographical error in the Award dated 26.06.2024, the learned Arbitrator issued a Corrigendum dated 06.09.2024 rectifying the said error.
- 13.** Being aggrieved by and dissatisfied with the Award dated 26.06.2024 and the Corrigendum dated 06.09.2024, the Petitioner has preferred the present Petition under Section 34 of the Arbitration and Conciliation Act, 1996.

Submission on behalf of the Petitioner

- 14.** Mr. Pratip Mukherjee, learned Counsel for the Petitioner submits that the impugned Award dated 26.06.2024 (as corrected by Corrigendum dated 06.09.2024) is liable to be set aside as the same is ex facie a non-speaking and unreasoned Award in violation of Section 31(3) of the Arbitration and Conciliation Act, 1996. The learned Sole Arbitrator has rejected all ten claims of the Petitioner and allowed the Respondent's counterclaim

without assigning cogent reasons, without analysing the documentary evidence on record, and without dealing with the contractual provisions relied upon by the Petitioner. The learned arbitrator has merely recorded conclusions without disclosing the reasoning process leading thereto thereby rendering the award patently illegal and unsustainable under Section 34 of the Act.

- 15.** The finding that the Respondent validly terminated the contract is wholly erroneous and perverse. The delay in completion of the work was attributable to the Respondent, who failed to provide the work front and necessary drawings in timely manner and further failed to release running bills and legitimate payments within the contractual period. The learned Arbitrator failed to consider that such breaches on the part of the Respondent directly impeded execution of the work. In the absence of consideration of these material facts, the conclusion upholding the termination is arbitrary and contrary to the evidence on record.
- 16.** Learned Counsel for the Petitioner further argued that the Petitioner failed to complete 5% of the work is unsustainable, as the alleged non-completion was a direct consequence of non-payment of legitimate dues by the Respondent. Despite this, the learned Arbitrator mechanically rejected all the Petitioner's claims and allowed the Respondent's counterclaim without examining proof of loss, causation, or mitigation. The Award thus suffers from non-application of mind, perversity, and patent illegality, warranting interference by this Court under Section 34 of the Act.

Submission on behalf of the Respondent

- 17.** Mr. Sunil Kr. Singhanian, learned counsel for the Respondent submits that the present Petition under Section 34 is wholly devoid of merit and is liable

to be dismissed. The impugned Award dated 26.06.2024 (as corrected by Corrigendum dated 06.09.2024) is a detailed and reasoned Award passed in strict compliance with Section 31(3) of the Arbitration and Conciliation Act, 1996. The learned Arbitral Tribunal has meticulously examined the pleadings, contractual provisions, correspondence exchanged between the parties, extension letters, running account bills, and other documentary evidence on record. Upon such consideration, the Tribunal has recorded a categorical finding that the delay in execution of the work was attributable to the Petitioner and not to the Respondent. The Award clearly reflects due application of mind and a reasoned analysis of the material before the tribunal, and therefore cannot be termed as non-speaking or perverse.

- 18.** The record further demonstrates that the Respondent granted as many as eight extensions of time to enable the Petitioner to complete the work. Despite such indulgence and repeated opportunities, the Petitioner failed to complete the project within the extended timelines. The Tribunal, upon appreciation of the documentary evidence, rightly held that the termination of the contract was valid and in accordance with the contractual terms. These findings are pure findings of fact based on evidence and are not open to reappraisal in proceedings under Section 34 of the Act.
- 19.** Further, the Tribunal rightly allowed the Respondent's counterclaim upon finding that the Respondent had incurred additional expenditure towards procurement of the transformer, which the Petitioner was contractually obliged to supply and install but failed to do so. The direction for refund was passed on the basis of proved documentary evidence and contractual liability. The scope of interference under Section 34 being limited, and

there being no patent illegality or perversity in the Award, no interference by this Hon'ble Court is warranted.

Legal Analysis

20. This Court has heard the arguments advanced by the learned counsel for the parties and has carefully examined the documents placed on record.

21. At the outset, it is a settled proposition that the jurisdiction of this Court under Section 34 of the Arbitration and Conciliation Act, 1996 is circumscribed and supervisory in character. The Court does not exercise appellate powers over an arbitral award and cannot reassess or reweigh the evidence as if sitting in appeal. In ***Dyna Technologies Pvt. Ltd. v. Crompton Greaves Ltd.***, reported as **(2019) 20 SCC 1**, the Hon'ble Supreme Court cautioned that while examining an arbitral award, Courts must not adopt a hyper-technical or excessively critical approach. The award is required to be read as a whole and in a reasonable manner. So long as the reasoning discloses application of mind and the conclusions are founded on material available on record, minor deficiencies in expression or elaboration would not render the award vulnerable. The position has been further reiterated in ***Gayatri Balasamy v. ISG Novasoft Technologies Ltd.***, reported as **(2025) 7 SCC 1**, wherein the Hon'ble Supreme Court underscored that Section 34 is not designed to function as an appellate forum. The arbitral regime is founded upon party autonomy and finality of adjudication. Courts are not permitted to reappreciate evidence, revisit factual findings, or interfere merely because a different interpretation of the material on record may also be possible. Judicial intervention is warranted only where the award is tainted by patent illegality, perversity, jurisdictional infirmity, or contravention of the

fundamental policy of Indian law. It is equally well established that, particularly after the 2015 amendment, the ground of “patent illegality” is confined to errors that strike at the root of the award and does not encompass erroneous application of law or re-evaluation of evidence. Where the view taken by the Arbitral Tribunal is a plausible and reasonable one arising from the evidence on record and the contractual terms between the parties, this Court must defer to such determination and refrain from substituting its own interpretation.

- 22.** Examining the Award in the light of the aforesaid settled principles, this Court finds that the learned Arbitral Tribunal has rendered a detailed and reasoned Award after considering the pleadings, documentary evidence, and the relevant contractual provisions. The Tribunal specifically noted that the Petitioner completed 95% of the contractual work, excluding installation of the transformer which was essential to complete the power supply arrangement at ADTP. The Tribunal took into consideration the letters dated 05.11.2020 and 16.11.2020 extending the time for conclusion up to 28.02.2021, as well as the communication dated 23.02.2021 informing that the third running bill (CC-3) had already been processed for payment, and the repeated requests made to the petitioner to supply and install the transformer. The Tribunal further recorded the issuance of a 7 days’ notice dated 25.02.2021 under Clause 62 of the General Conditions of Contract and a further 48 hours’ notice calling upon the Petitioner to complete the work. The Petitioner’s own admission vide letter dated 23.10.2020 that 5% of the work remained incomplete was also duly noted. Upon appreciation of these aforesaid documents, the Tribunal concluded that despite eight extensions of time and repeated opportunities, the

Petitioner failed to complete the remaining work and effectively abandoned the same. Consequently, termination of the contract vide letter dated 06.04.2021 was held to be in accordance with the contractual terms. The forfeiture of Security Deposit, encashment of Performance Guarantee, and denial of price variation were found to be strictly in terms of Clause 5 of the Letter of Acceptance dated 09.07.2018 and applicable GCC provisions. These are findings of fact based on evidence and contractual interpretation, and in view of the law laid down by the Hon'ble Supreme Court in ***Dyna Technologies Pvt. Ltd*** (supra) and ***Gayatri Balasamy*** (supra), the said findings cannot be interfered with merely because another view is possible.

- 23.** With respect to the counterclaim, the Arbitral Tribunal found, on the basis of documentary proof, that the Respondent had incurred an additional expenditure of Rs. 2,59,708.63/- towards procurement of the outdoor type 11/0.4 KV, 500 KVA transformer under Purchase Order dated 10.08.2022, necessitated by the Petitioner's failure to supply and install the same. The Tribunal, after examining the evidence, held the Petitioner liable to refund the said amount.
- 24.** This Court finds no perversity in the impugned Award, nor any disregard of the contractual provisions, nor any infraction of the fundamental policy of Indian law or public policy. The Hon'ble Supreme Court has consistently cautioned that judicial interference with arbitral awards must be exercised with extreme circumspection and only in cases where the illegality is patent, apparent on the face of the Award, and goes to the root of the matter. An award cannot be set aside merely because another view is

possible or because the Court may have arrived at a different conclusion on the same material.

25. Applying the aforesaid settled principles, this Court is satisfied that the impugned Award is a well-reasoned determination rendered upon due consideration of the evidence on record and the relevant contractual clauses. The findings recorded by the learned Arbitral Tribunal are plausible and fall squarely within its domain of appreciation of facts. The present Petition, in substance, seeks a re-evaluation of evidence and substitution of this Court's view for that of the Tribunal, which is clearly impermissible under Section 34 of the Act. No case for interference is made out.

26. The Petition is accordingly liable to be dismissed.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)