

ORDER

OC-23

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/59/2026
VARINDERA CONSTRUCTIONS LIMITED
VS
CENTRAL PUBLIC WORKS DEPARTMENT (CPWD)

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: 2ndFebruary, 2026.

Appearance:-
Mr. Pranit Bag, Adv.
Mr. Satyaki Mitra, Adv.
Mr. Ratul Deb Banerjee, Adv.
...for petitioner.
Mr. Atarup Banerjee, Adv.
Mr. Guddu Singh, Adv.
...for respondent.

The Court:- The petitioner has preferred the present petition under Section 14 of the Arbitration and Conciliation Act, 1996, challenging the unilateral appointment of respondent No.2 as the sole arbitrator to adjudicate the disputes between the parties by respondent No.1 and praying for appointment of independent arbitrator in substitution of the current sole arbitrator, who is former employee of the respondent No.1.

Learned counsel for the petitioner submits that disputes have arisen between the parties. The petitioner had invoked the arbitration clause contained in the contract by issuing notice dated 2ndAugust, 2025. The respondent, however, by its reply dated 15.09.2025 failed to accede to the petitioner's request for reference of the disputes to arbitration. Consequently, the petitioner filed an application, AP No.878 of 2025 under

Section 11(6) of the Arbitration and Conciliation Act, 1996 and the same is pending adjudication.

It is further submitted that during the pendency of AP No.878 of 2025, the petitioner unilaterally on 04.12.2025 appointed respondent No.2 as a sole arbitrator to adjudicate the disputes between the parties. Being aggrieved by such unilateral appointment of the sole arbitrator during the pendency of the Section 11 proceedings in AP No.878 of 2025, the petitioner has preferred the present petition challenging the said unilateral appointment.

In this context, the petitioner relies upon the judgment of the Hon'ble Supreme Court in *Central Organization for Railway Electrification v. ECI-SPIC-SMO-MCML (JV)*, reported in **2025 (4) SCC 641** wherein it has been held that the unilateral appointment of an arbitrator gives rise to justifiable doubts as to the independence and impartiality of the arbitrator and that such a clause is in violation of Article 14 of the Constitution. Applying the aforesaid well settled principles of law to the facts of the present case, this Court is of the considered view that the appointment of respondent No.2 as the sole arbitrator is in contravention of the settled principles of law and accordingly, the said appointment is hereby set aside.

At this stage, learned counsel for the parties jointly submits that they are agreeable to the appointment of Justice Ashok Das Adhikari (retired) as a sole arbitrator to adjudicate the disputes between the parties. In view of the consensus arrived at between the parties, the matter is accordingly referred to the learned sole arbitrator for adjudication.

The learned sole arbitrator shall be at liberty to determine his remuneration in accordance with the Forth Schedule of the Arbitration and Conciliation Act, 1996, and shall conduct arbitral proceedings in accordance with law. The parties are directed to forthwith communicate a copy of this order to the learned sole arbitrator.

It is clarified that this Court has not entered into the merits of the claims or counterclaims nor has it expressed any opinion on the merits of the matter. All the issues are left open to be adjudicated by the learned sole arbitrator.

Accordingly, AP-COM/59/2026 is disposed of.

(GAURANG KANTH, J.)

R. D. Barua