

ORDER

OCD – 22

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/119/2026 M/S.
RAJ CONSTRUCTION AND CO
VS
GARRISON ENGINEER (CENTRAL) AND ANR.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 24th February 2026

Appearance:-

Mr. Tanmoy Sett, Advocate
Mr. Pran Gopal Das, Advocate
... for the petitioner.

Mr. Sunil Singhanian, Advocate
Ms. Priti Jain, Advocate
... for the respondents.

1. The petitioner is a proprietorship concern. The notice inviting tender was issued by the respondent no.1 on February 16, 2024. The petitioner participated and emerged as the successful bidder. The petitioner was issued a letter of acceptance on March 9, 2024. Formal contract was executed. The date of handing over the possession of the site was scheduled on April 8, 2024 and the actual date of completion was scheduled on January 2, 2025. The GCC (IAFW-2249) along with its subsequent amendments were made applicable to the subject contract. The work related to Periodical Services Plastering ATT and Miscellaneous Works at MAP PH-II under GE(C) Kolkata. According to the petitioner, the work site was not handed over within the stipulated time. The buildings were occupied by residents. As such, the maintenance work could not commence on time. The samples of the materials were sent to the

respondents, but the respondents did not approve the same. The petitioner commenced work later but contends to have performed some extra work. However, on account of non-approval of the samples, the petitioner could not execute the work in the mode and manner provided in the tender document. Show-cause notice was issued to the petitioner. The petitioner replied to the show-cause notice. By a notice dated January 23, 2025, time for completion was extended.

2. Disputes arose between the parties on various issues and the parties had several meetings to resolve them. According to the petitioner, 12% of the work had been completed. The work of plastering and macro concrete of the external side of the Block-1 and Block-2 had been successfully completed by the petitioner. The external weather coating was completed in respect of Block-1. Rest of the work could not be completed, inter alia, on account of non-availability of the site. To the utter shock and surprise of the petitioner, by a letter dated February 12, 2025, the respondent no.1 cancelled and terminated the agreement with effect from February 14, 2025. The petitioner found that another notice inviting tender was floated for the subject contract. The petitioner moved an application under Section 9 of the Arbitration and Conciliation Act, 1996 before the competent civil court and an injunction was granted, restraining the respondents from branding the work of the petitioner as 'slow progress' or that the "petitioner was not entitled to more workload" and/or that the petitioner be 'removed from the approved list'. The respondent no.1 was

also restrained from preventing the petitioner from taking part in future tenders.

3. Thus, disputes which arose between the parties.
4. The petitioner has claimed unpaid bills, has challenged the cancellation and also has claims in damages for the loss of profit, cost of idle labour, non-refund of performance guarantee and security deposit etc. The petitioner contends that the claim of the petitioner came to more than Rs.20 lakh. Reliance has been placed on clause 70 of the GCC which provides for settlement of disputes by arbitration. It also provides that in case of cancellation, reference cannot be made till alternative arrangement has been made by the government. It is contended that, alternative arrangement has been made by the government and another contractor has been engaged to complete the work. Notice invoking arbitration was issued on August 19, 2025. The respondent asked the petitioner to sign an agreement and waive the applicability of section 12(5) of the Arbitration and Conciliation Act, 1996. The GCC provides for appointment of an Arbitrator from amongst serving officers.
5. Mr. Singhania, learned advocate for the respondents, submits that the claims of the petitioner are not arbitrable. The claims are not admissible. The petitioner did not execute the work and was very slow in its progress. Thus, the respondents had invoked their right under the concerned GCC to terminate the contract. The respondents deny each and every allegation of the petitioner.

6. Under such circumstances, it appears to this Court that there is a subsisting dispute. The GCC which contains an arbitration clause which was made applicable to the concerned tender process and as such the dispute is referred to arbitration. Unilateral appointment of an Arbitrator from an employee of the respondents is not legally permissible.
7. This application is allowed by appointing Mr. Debasish Roy, Senior Advocate [9831173923], as the sole arbitrator, to arbitrate upon the disputes between the parties. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix his remuneration as per the schedule of the Arbitration and Conciliation Act, 1996.
8. All questions as to the arbitrability of the issues, admissibility of the claims, limitation etc, shall be decided by the learned arbitrator, if so raised.
9. AP-COM 119 of 2026 is disposed of accordingly.

(SHAMPA SARKAR, J.)