Sr. No. 3

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU
(through virtual mode)

CJ Court
Case: Arb P No. 52/2026

M/s New Kashmir Fabricator th. Javed Iqbal. …Petitioner(s)/Appellant(s)

Through: Mr. Chaitanya Mahajan, Advocate.

V/s

Managing Director SICOP Jammu and ors. …. Respondent(s)

Through: Ms. Monika Kohli, Sr. Advocate (Sr. AAG)
with Ms. Priyanka Bhat, Advocate.

CORAM: HON'BLE THE CHIEF JUSTICE

ORDER
30.10.2026

(ORAL)

01. The present petition has been filed under Section 11(6) of the *Arbitration and Conciliation Act, 1996* (for short '**the Act'**) for appointment of an independent Arbitrator.

02. The concise facts of the case are as under:

The petitioner-Firm was allotted land measuring 02 kanals at SICOP Industrial Complex Battal Ballian Udhampur and a Lease Deed dated 29.03.2007 was registered in this regard. It is submitted that the petitioner after incurring an expenditure of ₹ 85.00 lacs for construction, boundary wall and infrastructure etc. finalized the establishment and construction work in the year 2012. Notwithstanding multiple requests, the Unit could not be made functional because the respondent failed to deliver the mandatory 400 KVA power capacity or establish a 250 KVA interim arrangement. Despite the building structure and installed machinery remaining physically present on the site, the respondents by way of a notice dated 02.04.2019, arbitrarily and unlawfully proceeded to cancel the allotment without ever communicating said cancellation to the petitioner. Thus, the dispute arose between the parties concerning:

a) the illegal cancellation of allotment;
b) failure on the part of the respondents to provide agreed facilities;

c) threat of dispossession, losses and damages suffered by the petitioner.

It is further submitted that the petitioner approached the Court of District Judge Udhampur by way of filing a Civil Original Suit on 13.12.2021, however, the said suit was rejected.

Despite subsequent reminders to resolve the disputes and appoint an arbitrator, the respondents failed to comply with the petitioner's request. Ultimately, the petitioner served a formal legal notice on 01.04.2026, pursuant to Section 21 of the Act, thereby invoking the arbitration clause enshrined in Clause 41 of the Lease Deed.

Clause 41 of the Lease Deed reads as under:

> "41. *That if any doubt, dispute, question or difference shall at any time hereafter arise, concerning construction, effect or meaning of these presents or any matter herein contained or other respective rights and liabilities hereunder, every such doubt, dispute, question, difference shall be referred to the Managing Director, J&K Small Scale Industries Development Corporation Limited (SICOP) for Arbitration under J&K Arbitration & Reconciliation Act. The decision of the Arbitrator thereon shall be conclusive and binding on the parties."*

It is further averred that notwithstanding the consistent efforts to settle the dispute arisen between the parties, the same remained unsettled. Hence, on account of nonfeasance from the respondents, the present petition.

01. After having argued the matter at some length and in the given circumstances, learned counsel for the respondents, as always, fairly submits that let an arbitrator be appointed. But, since the claim that is sought to be made by the petitioner is vehemently disputed/ denied, it is submitted that respondent be granted liberty to raise all possible pleas/ objections before the arbitrator in this regard.

02. Accordingly, in the wake of the position sketched out above and in terms of the statements made by the learned counsel for the parties, the petition is allowed. And, with consent of learned counsel for the parties, **Mr. Y P Kotwal, Retired District and Sessions Judge, Jammu (Mobile No. 9419113269)** is appointed as the sole arbitrator, who shall proceed with the matter in accordance with the provisions of the Act. And to make an award within the time provided in the Act itself after charging the prescribed fee along with incidental expenses to be shared by the parties. **The respondents are at**

liberty to raise all the objections/pleas/concerns as regards the subject matter before the learned Arbitrator.

03. Registry to send a copy of this order to the learned arbitrator.

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

Srinagar:
30.10.2026
SUNITA