



CGHC010281502026

2026:CGHC:38887

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ARBR No. 43 of 2026**

Punia Construction Company Through Its Partner / Authorized Representative
Having Its Office At Sector-13, Part-2, Hissar- 125001, Harayana, Haryana

... Applicant**versus**

South Eastern Central Railway Through Its Divisional Engineer, Having Office At
District- Bilaspur, Chhattisgarh

... Respondent

For Applicant	:	Mr. Akash Deep Sharma, Advocate.
For Respondent	:	Mr. Ramakant Mishra, Deputy Solicitor General.

Hon'ble Mr. Ramesh Sinha, Chief Justice**Order on Board****02.09.2026**

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.
2. The facts, in brief, as projected by the applicant are that the applicant is engaged in the business of civil construction and undertaking Railway, Concore. RIES etc. The applicant is aggrieved by the illegal and arbitrary act of respondent, due to failure to abide by the reciprocal promises, and timely action. The time for execution of work was extended, the respondent granted extension of time and admitted the delay in execution of work due to Railway. Section 55(2) of Indian Contract Act read with Section 73 grant right to the Contractor to compensate, furthermore the respondent Railway on 16.3.2026 terminated the contract of the applicant under clause 62 of GCC

2020. The order of termination of contract is ex-facie arbitrary and illegal as the mandatory procedure under clause 62 of agreement has not been followed and its true spirit, the reply to 7 days notice was submitted but ignored and 48 hrs notice was issued without considering the reply to 7 days notice rendering it a mere formality. It is necessary to add herein that despite admission of delay attributable by the respondent who failed to provide clear site, drawings and blocks, and extension granted without penalty and PVC, illegally terminated the agreement. The public funds cannot be mechanically utilized on personal whims and fancy. It is settled law that in contractual matters involving the State, the action must satisfy the standards of article 14 of Constitution of India. The bird eye views of the matter is that the respondent advertise for public work for Construction of-RUB by box pushing technique using RH girder and associate civil works in connection with closing of manned LC No. 336 at Km. 663/10 12 between SARAGAON DEORI-CHAMPA stations on JHARSUGUDA-BILASPUR section. LC no. 311 at Km. 617/5-7 between ROBERTSON-KHARSIA, LC no. 261 at Km. 516/19-21 between JHARSUGUDA-IB, LC no. 274 at Km 547/21 23 in HIMGIR YARD E/E and LC no.260 at Km 515/19-21 in IB-JHARSUGUDA of Bilaspur Division and invited bid for execution of public work. The respondent being lowest bidder, the bid was selected and the applicant with the bona fide believe that the respondent statutory authority has primarily done the necessary groundwork entered into agreement. On 15.7.2022 the Petitioner was awarded the contract for Construction of RUB by box pushing technique using RH girder and associate civil works in connection with closing of manned LC No.336 at Km. 663/10-12 between SARAGAON DEORI-CHAMPA stations on JHARSUGUDA-BILASPUR section, LC no.311 at Km. 617/5-7 between 4. ROBERTSON KHARSIA, 10 no.261 at Km. 516/19-21 between JHARSUGUDA-IB. LC no. 274 at Km 547/21-23 in HIMGIR YARD

F/E and LC 10. 260 at Kin 515/19-21 in IB-JHARSUGUDA of Bilaspur Division' by the respondent Railway being lowest bidder. The applicant, along with the work, deposited earnest money Transaction Amount 19,62,200/- transaction dt.4.4.2022 Bank transaction ID 220940857847 and Bank Guarantee No. E33GT02221660002 amounting to Rs.1,12,70,000/-. In favour of Sr. DEN (Co-ord.) South-East Central Railway Bilaspur valid upto 29.2.2022 and Guarantee of Rs.40,10,000.00 dated 15.6.2022. From the very inception, the project was marred by the respondent's failure to provide the necessary prerequisites for commencement, including the design mix of RCC and CC, detailed drawings of approaches, and even a copy of the signed contract agreement.

3. Learned counsel for the applicant submits that on 15.07.2022, and subsequently on 05.12.2022 the applicant formally notified the respondent of significant site hindrances, specifically the presence of unsifted electrical lines and water pipelines at LC No. 260, 261, and 274, as well as the fact that three RUB sites were not clear for the start of work. The applicant continued to diligently report persistent obstructions, including a drain site at LC 336, unauthorized persons on LC No. 311, and the lack of a recognized workspace at LC 274. It was further brought to the respondent's attention that unauthorized persons had encroached upon the land at LC 260. Despite the applicant's proactive approach-which included submitting five drawings and a calculation book for the thrust bed with a proof check from NIT on 15.10.2022 - the respondent failed to clear the sites or shift the utilities. At various locations including LC 336, LC 311, LC 274, LC 260, and LC 261 (Later converted in to RoB) work remained physically impossible due to incomplete land acquisition and the continued presence of electrical lines and water pipelines. On 18.11.2022, the applicant highlighted the logistical impossibility of the project's scope, noting a 148 kun distance between LC

No. 336 and LC No. 260. The applicant warned that the 6 to 7-hour transit time for concrete would compromise quality and requested the use of self loading concrete mixers, yet the respondent remained unresponsive to these technical necessities. On 17.01.2023, the applicant again highlighted that their machinery and establishment had been idling on-site for seven months due to pending drawing approvals and unremoved hindrances at all four LC sites No.336, 311. 260, and 261. The project suffered further administrative delays when the respondent blocked the agreement on the CRIS system, preventing the applicant from applying for the Date of Completion (DOC) as of 03.02.2025. On 23.10.2025 non-inter locking block has been planned between BUA-SGRD during the 12.11.2025 to 25.11.2025, but necessary arrangement could not be made by Railway due to which block failed.

4. Learned counsel for the applicant also submits that 03.12.2025 till 31.12.2026, for the block the applicant deployed all mechanical support and with all machinery. On 15.1.2026 & 17.1.2026 the block was provided by respondent vide its letter dt. 12.1.2026 after multiple failure of blocks. Throughout late 2025 and early 2026, the applicant repeatedly raised concerns regarding pending payments hindrances at site and issue relating to the provision of blocks and losses sustained by the applicant due to traffic blocks and prolonged work. While the respondent issued instructions for the arrangement of road cranes for launching work in right and simultaneously issued a 7-day notice under clause 62 of GCC on 27.02.2026, alleging failures that were inherently caused by the respondent's own delays and site mismanagement. In a clear admission of the delays being attributable to the respondent railway, the respondent granted a formal extension, extending the completion of work with Price Variation Clause (PVC) and notably without penalty. On 27.02.2026 the respondent issued a 7 day notice citing 4 reasons: failure to arrange the road crane for de-launching at LC 311,

disregard of site order book inspection, RUV work held up at LC 336, and failure to submit the agreed program of work. On 05.3.2026 the applicant submitted the reply of notice to respondent explaining all the facts and upload edit on portal. On 05.3.2026 the applied for extension for completion of work for one year up to 6.3.2027 with PVC and without penalty. On 09.3.2026 the respondent in most illegal and arbitrary manner issued notice of 48 hrs under clause 62(1) of Standard General Condition of contract. It is admitted in the notice that the respondent has not received any reply to the notice of 7 days dated 27.2.2026 under clause 62 (1) of GCC 2020, however the applicant has submitted the reply on portal of Railway. The respondent without considering or dealing with the reply, proceeded to notice under clause 62 (1) of 48 hrs which is illegal and arbitrary.

5. On 11.03.2026 the applicant submitted a detailed reply to notice of 7 days and 48 hrs issued under clause 62 with all explanations explicitly pointing out site hindrances, delay in providing drawings and the railway s delay in providing blocks. It is requested in the reply of cancellation of notice inter-alia with grant of block to the applicant. On 16.03.2026 the applicant requested for extension of time for execution of work, reiterating that the delay was solely attributable to Railway and there was no delay on the part of the bona fide applicant. On the exact same day, the respondent illegally terminated the contract without looking into the explanations provided in the replies to the 7-day and 48-hour notices. The respondent illegally terminated the contract without looking into the explanations provided in the reply to notice of 7 days 27 2.2026 and notice for 48 hrs dated 9.3.2026. The termination of contract by the respondent is in mechanical and predetermine manner. The action is arbitrary unreasonable and in violation of principal of natural justice. The issuance of notice cannot be an empty formality and the action must be after providing fair and reasonable opportunity to Contractor in accordance with

law. The applicant has till day completed 92% of total contract work and is ready and willing to complete the rest of work with the necessary and Constructive support of respondent. The illegal action at the stage cause irreparable loss and defeat public interest and the doctrine of proportionality is also violated. Notwithstanding the aforementioned extension, and despite the applicant submitting a detailed reply to the 48-hour notice on 11.03.2026 explaining the site hindrances, delay in providing drawing and delays in providing blocks whereas the respondent acted in a highly arbitrary manner. The applicant was awarded the work for RUB and from inception the project was hindered due to non clearance of site, non shifting of utilities, delay in drawings and approvals. The respondent granted extension without penalty under clause 17 of GCC admitting their own delay in execution of work. The respondent illegally issued 7 days notice under clause 62 of GCC on 27.2.2026 and on 5.3.2026 the applicant submitted their reply which was not considered and on 9.3.2026 48 hrs notice issued. The applicant submitted the reply to 48 hrs notice disclosing the fact that they had already filed the reply which was not considered and thus 48 hrs notice is not valid and proper in the eyes of law. The authorities acted in haste and passed termination order on 15.3.2026 the action of the respondent is not fair and reasonable and is arbitrary and illegal. The constitution guarantees equal and proper opportunity to the party before any decision, however the termination looks like a pre-decided order without any application of rule of law and thus the mechanical decision may be liable to be quashed as it is in violation of fundamental right and natural justice. On 16.03.2026. while the applicant was still requesting the respondent to acknowledge that the delays 'bonafide' faults of the contractor, the respondent illegally and abruptly terminated the executed without considering the applicant's detailed explanations. It is incredibly frustrating and financially draining. It must deal

with continuous administrative hurdles, only to have the agreement abruptly and illegally terminated by the Railway authorities. Dealing with state instrumentalities requires a strong, fact-based approach. The applicant submitted the reply to the termination notice requesting therein to allow to complete the work *inter-alia* with the submission that the delay is due to the respondent and the termination order is in mechanical nature without following the rule of law. The bonafide applicant challenged the illegal termination of work by respondent in Hon'ble high Court as well as in Hon'ble SC of India, and both the Court are to the view that the dispute between the parties are be adjudicated by Arbitration' and by the writ jurisdiction.

6. The applicant for the adjudication of dispute invoke the Arbitration clause and sent the letters of invocation on 24.04.2026 and 25.05.2026. The General Manager, South East Central Railway has not still responded to the letter of invocation. Further it is added that the Railway threatened the Contractor for unilateral measurement of work. The contractor disputed the act and therefore till day no proper amount is realized. The 7th schedule read with Section 12 (5) clearly provides that the Arbitrator is an employee or having any direct or indirect interest with the parties or affiliate of any of the parties cannot take an independent view. The very purpose of adjudication of dispute through independent and impartial mode get frustrated in case of the Arbitrator is related with any of the party in past or present. This Hon'ble Court in various judgments hold that the process of appointment of arbitration by the department or authority of the Government among their officials is in contrary to the arbitration and conciliation act. Hence the applicant preferred the present petition for the appointment of sole arbitrator in accordance with law to adjudicate and decide all the claims of the claimants. The applicant has not filed any other or similar petition with respect to present dispute between the petitioner and respondent creating to

the work. The aforesaid statutory mandate has been consistently upheld by the Hon'ble Supreme Court in a catena of judgments, including *Central Organization for Railway Electrification v. ECI-SPIC-SMO- MCML. (JV)*. (2024) (2025) 4 SCC 641, where it is held that the unilateral appointment clauses in public-private contracts, which allow one party to appoint arbitrators are arbitrary and consultation, unconstitutional. Without prejudice to the above-mentioned, it is crucial to note that there is no dispute with respect to the existence of the Arbitration Clause in the contract and therefore, the Court is well within its power under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator in the present dispute. Therefore, the applicant has approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996, for the appointment of the Sole Arbitrator to adjudicate and settle the dispute in question.

7. Learned counsel for the respondent opposes the present arbitration request application, however she submits that the respondent shall have no objection if this Court appoints any Arbitrator for resolving the dispute between the parties.
8. I have heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.
9. A query was put to learned counsel appearing for the parties as to whether they are agreeable for a common name who can be appointed as Arbitrator, learned counsel for the parties submitted that they would have no objection if any retired Judge of this High Court is appointed as the Sole Arbitrator. They further submit that Hon'ble Mr. Justice Arvind Kumar Verma, who is a retired Judge of this High Court may be appointed as the Sole Arbitrator.
10. In view of the above consensus between the learned counsel for the parties, **Hon'ble Mr. Justice Arvind Kumar Verma**, a retired Judge of this High Court is appointed to act as the Sole Arbitrator to resolve the dispute involved

in this arbitration request between the parties.

11. The Registry is directed to communicate this order to Hon'ble Mr. Justice Arvind Kumar Verma in the proper address.

12. The remuneration of the Arbitrator shall be settled with the mutual consent of the parties.

13. The arbitration request petition, accordingly, stands **disposed of**.

**Sd/-
(Ramesh Sinha)
Chief Justice**