

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 55 OF 2026

Cosmo Enterprises Ltd.

.....APPLICANT

: VERSUS :

Union of India, Ministry of
Railways, Central Railway

....RESPONDENT

Mr. Sumit Rai with Mr.Ratan Singh and Mr.Pranav G. i/b. Agama Law Associates, for the Applicant.

Ms. Apurva Gupte with Ms.Smita Thakur and Ms. Ateeba Hasan, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

DATED : 9 FEBRUARY, 2026.

P.C. :

1) This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) for adjudication of disputes and differences between the parties arising out of purchase order dated 19 May 2023.

2) Ms.Gupte, the learned counsel appears on behalf of the Respondent-Central Railways and submits that there is agreement between the parties to arbitrate. She however submits that the arbitration

agreement contemplates appointment of Arbitrator from the panel curated by the Railways. She places before the Court, copy of panel of retired railway officers and urges the Court to appoint Arbitrator from the said panel. However, as held by the Constitution Bench in **Central Organisation For Railway Electrification Versus. ECI SPIC SMO MCML (IV)**,¹ agreement for appointment of Arbitrator from panel curated by the Railways is unconstitutional. In that view of the matter, Arbitrator needs to be appointed by the Court outside the panel prepared by the Railways. I accordingly proceed to pass the following order :

(A) **Ms. Shubra Swami**, an Advocate of this Court is appointed as sole Arbitrator to adjudicate upon the disputes and differences. The contact details of the Arbitrator are as under :

Email ID :- swami.shubhra@gmail.com

Mobile No.:- 98207 29283

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocate for the Applicant within a period of one week from the date of uploading of this order. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal alongwith a copy of this order.

(C) The learned sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with

1 Civil Appeal No.9486-9487 of 2019 decided on 8 November 2024

Section 12(1) of the Act to the parties within a period of 2 weeks from receipt of a copy of this order.

(D) The parties shall appear before the learned sole Arbitrator on such date and at such place as indicated by her to obtain appropriate direction with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc.

(E) The fees of the sole Arbitrator shall be as prescribed under the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.

3) All rights and contentions of the parties are expressly kept open to be raised before the Arbitral Tribunal.

4) With the above directions, the Commercial Arbitration Application is **disposed of**.

NEETA
SHAILESH
SAWANT

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NEETA SHAILESH
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Date: 2026.02.10
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[SANDEEP V. MARNE, J.]