

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION NO. 199 OF 2026
WITH
COMMERCIAL ARBITRATION APPLICATION NO. 198 OF 2026

KEC International Limited

...Petitioner

V/s.

Western Railway through General
Manager & Anr.

...Respondent

Mr. Feroze Patel with Ms. Sankalpita Mullick and Mr. Karan Thakkar i/b.
Economic Laws Practice, for the Petitioner.

Mr. Niranjana Shimpi, *for the Respondents.*

CORAM: SANDEEP V. MARNE, J.

DATED: 6 May 2026.

P.C.:

1) These are applications filed under Section 11 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) for adjudication of disputes and differences that have arisen between the parties out of performance of the concerned contract.

2) I have heard Mr. Patel, the learned counsel appearing for the Applicant and Mr. Shimpi, the learned counsel appearing for the Respondents.

3) Mr. Shimpi fairly does not dispute existence of arbitration agreement. He however submits that neither the arbitration procedure is complied with nor the disputes have achieved the character of arbitrable disputes. He submits that the contract is still being performed and final bill is yet to be raised. Mr. Shimpi states that only disputes arising out of final bills are agreed to be arbitrated.

4) In my view, it is too premature at this stage for the Referral Court to go into the issue of arbitrability of disputes. Existence of arbitration agreement is admitted. Though arbitration clause postulates appointment of Arbitrator from the panel maintained by the Railways with General Manager taking part in constitution of the Tribunal, in view of law enunciated by the Constitution Bench in Central Organisation for Railway Electrification Versus. M/s. ECI SPIC SMO MCML (JV), a Joint Venture Company¹ such appointment by the General Manager of Railways, that too from the panel from the Railways, would suffer from the vice of unilateral appointment. In my view therefore it would be just and proper to appoint a sole Arbitrator for adjudication of disputes and differences between the parties.

5) I accordingly proceed to pass the following order :

(A) Hon'ble Mr. R.D. Dhanuka, Former Chief Justice of this Court is appointed as sole Arbitrator to adjudicate upon the disputes and differences between the parties. The contact details of the Arbitrator are as under :

1 2024 SCC Online 3219

Office Address :- 131, Mittal Tower, C-Wing, Barister Rajni
Patel Marg, Nariman Point, Mumbai-400
021.

Email ID :- rameshddhanuka5@gmail.com

Mobile No.:- 98211 34074

(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 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 him 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.

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

7) With the above directions, the Commercial Arbitration Applications are **disposed of**.

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2026.05.07
15:05:39
+0530

[SANDEEP V. MARNE, J.]