(2026:HHC:47926)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Case No.39 of 2026
Date of Decision:- 30.10.2026

M/s K.K. Mahajan Constructions **....Petitioner**

Versus

State of Himachal Pradesh & another **....Respondents**

Coram
The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
Whether approved for reporting?[1]

For the Petitioner	:	Mr. Suneet Goel, Senior Advocate with Mr. Vishwas Kaushal and Mr. Aman Hansretta, Advocates.
For the Respondents	:	Mr. Navlesh Verma, Additional Advocate General.

G.S. Sandhawalia, Chief Justice *(Oral).*

The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of a Sole Arbitrator regarding the work of "Construction of Bridge (Single Lane) over Nalled Khad near Churu-Ra-Balh in Dharampur constituency." The stipulated period for completing the work was two years from the date of the issuance of the Letter of Award dated 23.08.2018 **(Annexure P-2),** and the agreement which is appended as **Annexure P-3.**

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[1] Whether reporters of Local Papers may be allowed to see the judgment?

2. Although, the work was completed on 06.11.2021, and the Superintending Engineer, Dharampur Circle, HPPWD, Dharampur, had released a Letter of Credit (LOC) of Rs.16,00,000/- on 11.03.2024, but the said amount has not been released to the petitioner. Resultantly, a notice dated 20.12.2024 **(Annexure P-4)** was served upon the respondents, proposing three names for the appointment of a Sole Arbitrator and on account of non-filing of reply to the said notice, the present petition came to be filed.

3. The petition has been opposed by filing a reply stating that the claims are barred by the principles of waiver, acquiescence, and estoppel, as the claimant accepted final payments without protest. Further, the work had been delayed; three time extensions were given to the petitioner, and a fourth extension was granted w.e.f. 06.09.2020 to 25.11.2021. It is also submitted that the petition is barred by limitation, as the work was completed on 06.11.2021 and the 15th final bill had already been prepared. Therefore, the notice dated 20.12.2024 **(Annexure P-4)** was issued more than three years after the completion of the work.

4. In such circumstances, counsel for the respondents-State opposed the appointment of an Arbitrator on the ground that it is a 'dead claim,' even though three alternative names for the appointment of an Arbitrator were proposed in the written statement.

5. Keeping in view the above, this Court is of the considered opinion that since there is no specific denial regarding the Letter of Credit (LOC) issued by the concerned Superintending Engineer on 11.03.2024, which subsequently led to the notice being served on 20.12.2024 **(Annexure P-4),** the issue, whether the claim is time-barred, is a matter for the Arbitrator to decide. *Prima facie*, it cannot be said that the claims are barred by limitation. Needless to say, the question of limitation remains open to be examined by the Arbitrator, as this Court has not expressed any final opinion on the same.

6. Keeping in view the fact that the parties having agreed to the terms of the agreement, the matter is liable to be settled by way of the form, which the parties had agreed to resolve by way of arbitration.

7. Resultantly, the application is allowed and Mr. Hamender Singh Chandel, Advocate of this Court is appointed as an Arbitrator (Mobile No.9418051894) to adjudicate the dispute between the parties, after his disclosure in writing is obtained in terms of Section 11(8) of the Act and only after receipt thereof, his appointment, as an Arbitrator, shall come into force.

8. On his giving consent to arbitrate the dispute between the parties as an Arbitrator, Mr. Hamender Singh Chandel shall

enter into reference, and shall pass an award in accordance with law.

9. Copy of this order be furnished to the learned counsel for the parties and also be furnished to the learned Arbitrator. The learned Arbitrator so appointed shall be entitled to fee as per stipulation contained in 4th Schedule appended to the Arbitration, and Conciliation Act, 1996.

10. It is further directed that the Arbitrator after the proceedings are concluded, shall send the record to the Registrar (Judicial) for keeping the same in safe custody, since the challenge is liable to be raised under the provisions of the Arbitration Act to the award in question and it would be in the interest of justice to preserve the record, whereby the Arbitrator as such has been appointed by this Court.

11. Accordingly, the application is disposed of alongwith pending miscellaneous application(s), if any.

(G.S. Sandhawalia)
Chief Justice

30th October, 2026
(Munish Thakur)