IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Arb. Case No. 180 of 2025
Decided on : 30.10.2026

Beas Valley Power Corporation Ltd.

…Petitioner

Versus

M/s Abir Infrastructure Pvt. Ltd.

…Respondent

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

For the petitioner	**:**	Ms. Mansi Sharma, Advocate, for Ms. Vandana Misra, Advocate.
For the respondents	**:**	Respondent *exparte* vide order dated 18.09.2026.

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

The present petition has been filed under Section 14(2) read with Section 15(2) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for termination of mandate and appointment of a substituted Arbitrator.

2. It has been averred that in terms of the Arbitration Clause, one Sh. Subhash Gupta, retired Chief Engineer, was appointed as a sole Arbitrator by the Managing Director of the petitioner vide letter dated 27.03.2017, who entered into the Reference on 25.04.2017. The respondents had filed their statement of claim on 30.05.2017 and the petitioner had filed reply to the said statement of claim on 19.01.2018 and had also

1 *Whether reporters of the local papers may be allowed to see the judgment?*

filed a counter-claim for a sum of Rs.24.11 Crore.

3. The sole Arbitrator had conducted nine hearings in the arbitration case after entering into the Reference. His mandate had expired on 26.09.2018 and it was extended by the order of this Court in an Arbitration Case No. 92 of 2018, on 01.11.2018 (Annexure P-5), for a period of six months.

4. Reference is made to the application having been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, by M/s Vinayak Wire Products Pvt. Ltd., against the respondent before the National Company Law Tribunal, Bench at New Delhi, which had been admitted and moratorium order had been issued on 30.01.2019 (Annexure P-8)

5. The mandate before the learned Arbitrator had expired on 02.03.2020 and due to the COVID-19 period, proceedings were resumed on 23.02.2022, but the respondent had failed to appear before the Arbitral Tribunal. The sole Arbitrator had failed to pass the Award within the stipulated period, who was a retired employee of the petitioner company. In such circumstances, application had been filed for the termination of his mandate and for appointment of a new Arbitrator.

6. It is also brought to the Court’s notice that respondent was served for 05.12.2025, but he did not put in appearance on the said date and the matter was then fixed for

24.07.2026. On that date, none had put in appearance and proceedings were then deferred for 18.09.2026. Even on that date, none had put in appearance on behalf of the respondent. Accordingly, it was proceeded against *exparte* and the matter was kept for today, i.e., 30.10.2026.

7. Keeping in view of the law laid down by the Apex Court in ***Perkins Eastman Architects DPC and another Vs. HSCC (India) Ltd., (2020) 2 SCC 760,*** this Court is of the opinion that an independent Arbitrator is to be appointed.

8. Accordingly, the present petition is allowed and Mr. D.P. Bajaj, Former Chief Engineer, Punjab PWD B&R, H.No. 311, Sector-7, Panchkula-134109 (Mob. No. 9815187311), is appointed as an Arbitrator 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.

9. On his giving consent to arbitrate the dispute between the parties as an Arbitrator, D.P. Bajaj, Arbitrator-cum-Former Chief Engineer, shall enter into Reference, and pass an award in accordance with law.

10. Copy of this order be furnished to the learned Counsel for the parties as also 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.

11. 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.

12. Accordingly, the petition is disposed of, so also the pending applications, if any.

(G.S. Sandhawalia)
Chief Justice

October 30, 2026
(Shivank Thakur)