SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS

ARBAP/3/2026

Ms Pathkind Diagnostics Private Limited
--Petitioner

Versus

State Of Uttarakhand --Respondent

Hon'ble Manoj Kumar Tiwari, ACJ

1. Mr. S.R. Joshi & Ms. Bhavya Sharma, Advocates for the applicant.
2. Mr. J.C. Pande, learned Standing Counsel for the State of Uttarakhand - respondents.

3. This application is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "the Act") for appointment of an Arbitrator.

4. It is contended that a contract was executed between applicant and respondent nos. 1 & 2 for conducting Reverse Transcription Polymerase Chain Reaction (RT PCR) test during the period when COVID-19 pandemic struck the Nation; however, full payment for the work done by the applicant has not been made to him so far.

5. Learned counsel for the applicant relies upon Clause 8 of the contract, which reads as under:-

"**8. Settlement of Disputes**

8.1 Amicable Settlement The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2 Dispute Settlement

8.2.1 If any dispute arises between the Employer and the Service Provider in connection with, or arising out of the Contract or the provision of the Services, whether during carrying out the Services or after their completion, the matter shall be referred to the Adjudicator within 14 days of the notification of disagreement of one party to the other.

8.2.2 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.

8.2.3 The Adjudicator shall be paid at the per day rate specified in the BDS and SCC, together with reimbursable expenses of the types specified in the SCC, and the cost shall be divided equally between the Employer and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

8.2.4 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the SCC.

The Arbitrator shall give a decision in writing within 180 days of start of the proceedings except otherwise agreed to by the Parties. The Arbitrators shall entertain only those issues which have been earlier referred to the Adjudicator and either party is dissatisfied with the decision given by the Adjudicator.

8.2.5 (a) The Adjudicator shall be appointed jointly by the Employer and the Service Provider, at the time of the Employer's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.

(b) The Adjudicator should be in position before "notice to proceed with work" is issued to the Service Provider and an agreement should be signed with the Adjudicator jointly by the Employer and the Service Provider in the form attached- Appendix I.

(c) Should the Adjudicator resign or die, or should the Employer and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Service Provider. In case of disagreement between the Employer and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request."

6. Learned counsel for the applicant has drawn attention of this Court to the request made on behalf of applicant for appointment of Adjudicator within 14 days. Such request was made vide letter dated 06.11.2024 issued by Mr. Anand Singh, Advocate on behalf of applicant, which is on record as annexure 26 to the affidavit.

7. Since respondents did not take any steps for appointing Adjudicator, and according to the applicant, he kept on waiting for the Adjudicator to be appointed, therefore, it is contended that the matter is now ripe for appointment of an Arbitrator.

8. Learned counsel for the respondents, however, submits that the application for appointment for Arbitrator has been filed after much delay.

			9. Delay is a mixed question of law and fact and the Arbitrator can go into that question. Since request is made for appointment of Arbitrator, and in view of existence of arbitration clause in clause 8 of the agreement entered into between the parties, this arbitration application deserves to be allowed and is, hereby, allowed. 10. I, hereby, appoint Hon'ble Mr. Justice Rajesh Tandon (Retd.), R/o Banglow No. 19, High Court Judges Colony, Sector 105 Noida - 201301, as the sole Arbitrator. 11. Let a copy of this order be communicated to Hon'ble Mr. Justice Rajesh Tandon (Retd.), R/o Banglow No. 19, High Court Judges Colony, Sector 105 Noida - 201301. 12. The Arbitrator shall, in terms of Section 11(8) of the Act, furnish his disclosure in writing to the Court within 15 days from the date of receipt of a certified copy of this order. The Arbitrator shall, in consultation with the parties, fix the remuneration and other chargeable fees. The Arbitrator shall make endeavour to hear and pass an Award within the time provided under the statute. **(Manoj Kumar Tiwari, ACJ)** 02.11.2026 *Aswal* NITI RAJ SINGH ASWAL