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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 258/2026**

AKSHTIZ @ ANIL BIRMANI PROPRIETOR OF M/S VIVEK ASSOCIATES
.....Petitioner

Through: **Mr. Abhishek Semwal, Adv.**
Mob: 9891488079

versus

GOVT. OF NCT OF DELHI & ANR.Respondents

Through: **Mr. Raghvendra Upadhyay, Panel Counsel for GNCTD, with Ms. Pumima Jain and Mr. Madhur, Advocates**
Mob: 9818720615
Email: advrghv@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
26.02.2026

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1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"), for appointment of a Sole Arbitrator, for the adjudication of disputes between the parties, arising out of the Letter of Award dated 06th May, 2023, executed between the parties, for the work of routine maintenance and operation of pumps, firefighting, fire alarm systems, lifts etc. installed at *IHBAS, Dilshad Garden, Delhi.*



2. As per the facts on record, the bid of the petitioner for the aforesaid work was accepted by the respondents *vide* Acceptance Letter dated 27th April, 2023, which was followed by Letter of Award dated 06th May, 2023. The parties in June, 2023, also entered into Formal Contract Agreement No. 15/EE(E)/HMED/(East)/PWD/GTBH, which was governed by the CPWD General Conditions of Contract – 2020 (“GCC”).

3. As per the terms of the contract, the stipulated period of completion of work was 24 months. However, disputes arose between the parties, as upon the insistence and instructions of the respondent to take all the employees already working at site on its roll, the petitioner had taken over the site with the same employees as employed earlier. As per the petitioner, most of the workers with whom the petitioner was forced to work, did not cooperate with the petitioner and did not follow the instructions.

4. The aforesaid issue was raised before the Assistant Engineer, and the Junior Engineer of the respondents *vide* Letters dated 30th January, 2024 and 07th February, 2024.

5. Further, as per the case put forth by the petitioner, the respondent did not release the payments for the services rendered and works done by the petitioner. Despite various requests, the requisite amount was not released to the petitioner. Thus, the petitioner *vide* letter dated 24th February, 2024 proceeded under the Arbitration Clause 25 (i) of the contract, and asked respondent no. 1 to foreclose the contract and release the dues of the petitioner.

6. As per the petition, the respondent department started making payments to the workers at site on its own from May, 2024 onwards. Thus, by conduct of the respondent department, contract of the petitioner was



deemed closed on 30th April, 2024. However, subsequently, the respondents issued a Show Cause Notice dated 09th September, 2024 under Clause 3 of GCC. The aforesaid Show Cause Notice was replied by the petitioner *vide* Letter dated 18th September, 2024. Subsequently, the contract was terminated *vide* Termination Letter dated 26th September, 2024.

7. The petitioner wrote a letter dated 22nd April, 2025 requesting to either release the payments or refer the matter to Dispute Redressal Committee (“DRC”). However, despite expiry of 30 days, no action was taken to either make payment to the petitioner or for appointment of DRC.

8. In light of the above, the petitioner then invoked the arbitration clause, i.e. Clause 25 (ii) of the GCC, and served the Notice dated 27th May, 2025, under Section 21 of the Arbitration Act, to the respondents. The said appointment of arbitrators request was reiterated by the petitioner *vide* Letters dated 30th July, 2025 and 18th September, 2025, which was replied to by the respondents *vide* Letter dated 09th October, 2024, intimating to the petitioner to exhaust the remedy of formation of DRC.

9. However, as per the case put forth by the petitioner, the petitioner had already exhausted the pre-conditions to the arbitration. Thus, *vide* Letter dated 16th October, 2025 and 13th November, 2025, the petitioner requested for appointment of arbitrators, and as no reply was made to the same, the present petition came to be filed.

10. When the matter was listed on the first day, time was taken by learned counsel appearing for the respondent to take instructions. Thus, today, learned counsel appearing for the respondents, on instructions, submits that the respondents have no objection if an Arbitrator is appointed.

11. Both the parties are *ad idem* that an Advocate be appointed as an



Arbitrator.

12. This Court notes that the claim amount in the present case is approximately Rs. 80-90 lacs.

13. Learned counsel appearing for the petitioner submits that the arbitration be conducted through Delhi International Arbitration Centre (“DIAC”).

14. The Arbitration Clause between the parties is contained in Clause 25 of the GCC, which is reproduced as under:

“xxx xxx xxx

Clause 25

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:

(i) If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge or if the Engineer in Charge considers any act or decision of the contractor on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable and is disputed, such party shall promptly within 15 days of the arising of the disputes request the Chief Engineer/ CPM, or where there is no Chief Engineer/CPM, request the Additional Director General/Special Director General, who shall refer the disputes to Dispute Redressal Committee (DRC) within 15 days along with a list of disputes with amounts claimed if any in respect of each such dispute. The Dispute Redressal Committee (DRC) give its decision within a period of 60 days extendable by 30 days by consent of both the parties from the receipt of reference from CE/CPM/ADG/SDG. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule 'F'. Provided that



no party shall be represented before the Dispute Redressal Committee by an advocate/legal counsel etc.

The DRC will submit its decision to the concerned ADG/SDG for acceptance. ADG/ SDG in a time limit of 30 days from receipt of DRC decision will convey acceptance or otherwise on the said decision. If the Dispute Redressal Committee (DRC) fails to give its decision within the aforesaid period or the ADG/SDG fails to give his decision in the aforesaid time limit or any party is dissatisfied with the decision of Dispute Redressal Committee (DRC)/ ADG/ SDG then either party may within a period of 30 days from the receipt of the decision of Dispute Redressal Committee (DRC)/ ADG/ SDG or on expiry of aforesaid the time limits available to DRC/ ADG/SDG, may give notice to the Chief Engineer/CPM, CPWD, in charge of the work or if there be no Chief Engineer/ CPM, the Additional Director General /Special Director General concerned or if there be no Additional Director General/ Special Director General, the Director General, CPWD for appointment of arbitrator on prescribed proforma as per Appendix XVII under intimation to the other party.

It is a term of contract that each party invoking arbitration must exhaust the aforesaid mechanism of settlement of claims/disputes prior to invoking arbitration.

The CE/ADG/ SDG shall in such case appoint the sole arbitrator or one of the three arbitrators as the case may be within 30 days of receipt of such a request and refer such disputes to arbitration. Wherever the Arbitral Tribunal consists of three Arbitrators, the contractor shall appoint one arbitrator within 30 days of making request for arbitration or of receipt of request by Engineer-in-charge to CE/ADG/ SDG /DG for appointment of arbitrator, as the case may be, and two appointed arbitrators shall appoint the third arbitrator who shall act as the Presiding Arbitrator. In the event of

*(a) A party fails to appoint the second Arbitrator, or
(b) The two appointed Arbitrators fail to appoint the Presiding Arbitrator, then the Director General, CPWD shall appoint the second or Presiding Arbitrator as the case may be.*

(ii) Dispute or difference shall be referred for adjudication through arbitration by a Tribunal having sole arbitrator where claimed amount is Rs. 20 Crore or less. Where claimed Value is more than Rs. 20 Crore, Tribunal shall consist of three Arbitrators as above. The requirements of the Arbitration and Conciliation Act, 1996 (26 of 1996) and any further statutory modification or re-enactment thereof and the rules made there under and for the time being in force shall be applicable.



It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed, if any, in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the decision of the ADG/ SDG on the finding / recommendation of DRC.

It is also a term of this contract that member(s) of the Arbitration Tribunal shall be a Graduate Engineer with experience in handling public works engineering contracts, and further he shall have earlier worked at a level not lower than Chief Engineer/ equivalent (i.e. Joint Secretary level of Government of India). This shall be treated as a mandatory qualification to be appointed as arbitrator.

Parties, before or at the time of appointment of Arbitral Tribunal may agree in writing for fast track arbitration as per the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015.

Subject to provision in the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015 whereby the counter claims if any can be directly filed before the arbitrator without any requirement of reference by the appointing authority. The arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs. 1,00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that fees payable to arbitral tribunal shall be as approved by DG, CPWD, OM issued vide no.2/2006/SE(TLC)/CSQ /137 dated 19-11-2019 (or its latest amendment as approved by DG, CPWD). This fee shall be shared equally by parties.

The place of arbitration shall be as mentioned in Schedule F. In case there is no mention of place of arbitration, the arbitral tribunal shall determine the place of arbitration.

The venue of the arbitration shall be such place as may be fixed by the Arbitral Tribunal in consultation with both the parties. Failing any such agreement, then the Arbitral Tribunal shall decide the venue.

xxx xxx xxx”

15. Perusal of the aforesaid arbitration clause clearly shows that there is a valid Arbitration Agreement between the parties, which stipulates reference of disputes between the parties to Sole Arbitrator.



16. In view of the above, this Court is satisfied that there are disputes between the parties and there is a valid arbitration clause, and accordingly the disputes are to be adjudicated by way of referring the parties to arbitral proceedings.

17. Accordingly, with the consent of the parties, following directions are issued:

- i) Mr. Viplav Acharya, Advocate (Mob: +91-9971801123) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration proceedings shall be held under the aegis and Rules of DIAC, Delhi High Court, Sher Shah Road, New Delhi.
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Arbitration Act prior to entering into the reference. In the event of any impediment to the Arbitrator's appointment on that Count, the parties are given liberty to file an appropriate application before this Court.
- v) It shall be open to the respondents to raise counter-claims, if any, in arbitration proceedings.
- vi) It is made clear that all the rights and contentions of the parties, including, as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.

18. It is made clear that this Court has not expressed any opinion on the



merits of the case.

19. Accordingly, the present petition is disposed of in the aforesaid terms.

20. The Registry is directed to send a copy of this order to the learned Arbitrator as well as Secretary, DIAC for information and compliance.

MINI PUSHKARNA, J

FEBRUARY 26, 2026/SK