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

+ ARB.P. 287/2026, I.A. 4028/2026 & I.A. 4029/2026

RAJESH KUMAR

.....Petitioner

Through: Mr. Mithilesh Jha, Adv.

versus

NATIONAL HIGHWAY AUTHORITY OF INDIARespondent

Through: Ms. Madhu Sweta, Adv.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **13.02.2026**

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), seeking appointment of a Sole Arbitrator, in respect of the disputes arising out of the Contract Agreement dated 04th August, 2025 between the parties, whereby, the petitioner herein was engaged for collection of User Fees at *Banaundi Fee Plaza*, amongst other services.
2. It is the case of the petitioner that the respondent had invited bids for the aforementioned purpose by falsely misrepresenting the Annual Potential Collection ("APC") of the Fee Plaza in question to be Rs. 19.53 Crores, translating into Rs. 5,35,000/- as daily remittance.
3. The Contract Agreement 04th August, 2025 had been executed

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between the parties pursuant to a Letter of Award dated 30th July, 2025, by way of which, the petitioner's bid/quote of a daily remittance of Rs. 2,94,288/- had been accepted by the respondent - National Highways Authority of India ("NHAI").

4. It is further submitted that in terms of the Letter of Award dated 30th July, 2025 between the parties, the petitioner had also submitted a Performance Security of Rs. 44,15,000/- with NHAI.

5. Learned counsel appearing for the petitioner submits that due to lack of adequate connectivity at the concerned Fee Plaza, the actual toll collections were lower than the APC projected by NHAI at the time of inviting bids, and therefore, the petitioner could not carry out his obligations under the Contract Agreement.

6. He further submits the petitioner had made numerous representations to the NHAI in respect of the delay in commencement of toll collection due to lack of operational readiness of the concerned road as well as lack of adequate connectivity for facilitating collection of toll.

7. The petitioner had subsequently, on 14th September, 2025, also sought suspension of the work order for collection of toll from the respondent – NHAI, as the same was causing financial burdens to the petitioner. However, despite the same, NHAI directed petitioner to deposit the daily remittance amount.

8. It is submitted that on 22nd September, 2025, the respondent invited fresh bids for the purpose of engaging another contractor for the purpose of User Fees collection at *Banaundi Fee Plaza*. Pursuant to such invite, the petitioner invoked the dispute resolution clause being *Clause 27* of the Contract Agreement dated 04th August, 2025, seeking conciliation of the



disputes between the parties, in terms of *Clause 27(a)*.

9. Learned counsel appearing for the petitioner submits that though a request for conciliation proceedings was made, however, no Conciliation Committee in terms of the aforesaid *Clause 27(a)*, was constituted. Thus, the present petition has been filed, seeking appointment of a Sole Arbitrator.

10. Issue notice. Notice is accepted by learned counsel appearing for the respondent.

11. At the outset, learned counsel appearing for the respondent raises an objection that the petitioner has not invoked the Arbitration Clause, in terms of Section 21 of the Arbitration Act, i.e., *Clause 27(c)* in the present case.

12. After some arguments, learned counsel appearing for the respondent submits that she has no objection if an Arbitrator is appointed, since there is an Arbitration Clause for adjudication of disputes between the parties.

13. Learned counsel appearing for the petitioner submits that the petitioner has claims approximately to the tune of Rs. 90 Lacs.

14. This Court notes the '*Arbitration & Conciliation*' Clause between the parties, i.e., *Clause 27* of the Contract Agreement dated 04th August, 2025, which reads as under:

“xxx xxx xxx

27. ARBITRATION & CONCILIATION:

a. All disputes/differences except those mentioned in the matters non arbitrable under Clause 26 above arising between the parties out of this contract shall be settled by way of conciliation under and in accordance with the provision of the Conciliation Policy of NHAI through CCIE (Conciliation Committee of Independent Experts) or Sole Conciliator. The proceedings shall be held at New Delhi or any other place as per policy of NHAI.

b. Pending resolution of any dispute pursuant to Conciliation, under all circumstances the Contractor shall continue to remit the agreed installments of money to the Authority as prescribed in this Contract



including when the dispute is about the amount to be remitted.

c. In case of non-agreement through the Conciliation, both Parties can opt for Arbitration through sole Arbitrator under and in accordance to the provisions of the Arbitration and Conciliation Act, 1996. The Sole Arbitrator shall be appointed by Chairman of the Authority.

d. The proceedings of the Arbitration shall be held in English language and shall be held at such place as may be decided by the Chairman of the Authority or his nominee.

e. Pending resolution of any dispute pursuant to Arbitration, under all circumstances the Contractor shall continue to remit the agreed instalments of money to the Authority as prescribed in this Contract including when the dispute is about the amount to be remitted.

f. The contract agreement shall be governed by and construed in accordance with the laws of India and the Courts at New Delhi shall have the exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the contract agreement.

xxx xxx xxx”

15. Accordingly, this Court is satisfied that there is a valid Arbitration Clause governing the relation between the parties, and that there are disputes between the parties which need to be adjudicated by an Arbitrator and further, that this Court has the jurisdiction to appoint an Arbitrator.

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

- i. Shri S.K. Tandon, Additional District and Sessions Judge (Retd.), (Mobile No.: 9811719888) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii. The remuneration of the Arbitrator shall be in terms of Schedule IV of the Arbitration Act.
- iii. The 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 there is any impediment to the Arbitrator's appointment on that count, the



parties are given liberty to file an appropriate application before this Court.

iv. It shall be open to the respondent to raise counter-claims, if any, in the arbitration proceedings.

v. It is made clear that all the rights and contentions of the parties, including, the arbitrability of any of the claims and/or counter-claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.

vi. The parties shall approach the Arbitrator within two (02) weeks from today.

17. Accordingly, the present petition, along with the pending applications, is disposed of in the aforesaid terms.

18. The Registry is directed to send a copy of this order to the learned Arbitrator, for information and compliance.

MINI PUSHKARNA, J

FEBRUARY 13, 2026/KR