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

+ O.M.P.(I) (COMM.) 146/2026 & I.A. 8946/2026

M/S A S PATEL

.....Petitioner

Through: Mr. Ivan, Mr. Siddharth Aggarwal,
Mr. Raghav Srivastava, Mr.
Harshvardhan Rathore and Ms.
Monika Prakash, Advs.
Mob: 9818155965
Email: ivan@svilegal.com

versus

NATIONAL HIGHWAY AUTHORITY OF INDIARespondent

Through: Mr. Santosh Kumar, SC with Mr.
Adithya Ramani, Advocate for NHAI
Mob: 8527585997

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **06.04.2026**

1. The present petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") seeking interim relief for injuncting the respondent from invoking the performance security surety bond bearing nos. 2123005625510000002 and 2123005625510000003 to the tune of Rs. 3,31,46,877/-.
2. There is further prayer for staying the operation of the Letters dated 05th March, 2026 and 27th March, 2026, issued by the respondent, by way of which the respondent placed its demands to the petitioner and intimated in relation to invocation performance guarantees.



3. The Court notes that the petitioner had approached this Court on earlier occasion also and *vide* order dated 20th March, 2026 in *O.M.P.(I) (COMM.) 90/2026*, it had been recorded as follows:

“1. The present Petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking certain ad interim orders.

2. After arguing for some time, learned counsel appearing on behalf of the parties, on instructions, submit that they have no objection to the matter being referred to the arbitration.

3. In terms of Clause 25 of the conditions of contract, they undertake to exchange their respective nominees names within a period of five (05) days from today. Subsequently, the nominated Arbitrators shall, within a period of 5 days thereafter, appoint the Presiding Arbitrator, under the aegis of SAROD Arbitration.

4. The present Petition, along with pending Application(s), if any, are disposed of, in aforesaid terms.”

4. This Court records the statement of learned counsel appearing for the petitioner that pursuant to the aforesaid order, they have already nominated their arbitrator.

5. Learned counsel appearing for the petitioner further submits that though earlier the respondent had not nominated their nominee arbitrator, however, after service of the present petition, a nominee arbitrator has been nominated by the respondent.

6. However, learned counsel appearing for the respondent disputes the same and submits that the respondent had nominated their arbitrator on 25th March, 2026. However, the said arbitrator recused himself from the case, on account of which, a fresh nomination had to be done on 01st April, 2026.

7. At this stage, learned counsel appearing for the petitioner submits that respondent is already carrying out the deduction from the interim payments of the petitioner. He, thus, submits that once deduction from the interim



payment is already being done by the respondent, there is no occasion for the respondent to invoke the performance security surety bonds.

8. Learned counsel appearing for the petitioner further submits that the Interim Payment Certificate (“IPC”)-No.5, has still not been processed by the respondent.

9. However, learned counsel appearing for the respondent submits that there are numerous defects in the same.

10. This Court notes that in the earlier petition filed by the petitioner, i.e., *O.M.P.(I) (COMM.) 90/2026*, no interim directions were passed in favour of the petitioner.

11. Further, this Court takes note of the fact that pursuant to the order dated 20th March, 2026 in *O.M.P.(I) (COMM.) 90/2026*, both the parties have already nominated their arbitrators.

12. Accordingly, the parties are directed to approach the nominated arbitrators, for the purposes of appointment of the presiding arbitrator under the aegis of the Society for Affordable Redressal of Disputes (“SAROD”) Arbitration.

13. All the issues as raised by the petitioner, including, the submissions made under Section 9 petition, shall be allowed to be raised by the petitioner before the learned Arbitral Tribunal in an application under Section 17 of the Arbitration Act.

14. Accordingly, with the aforesaid directions, the present petition, along with the pending applications, is disposed of.

MINI PUSHKARNA, J

APRIL 6, 2026
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