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

+ **ARB.P. 618/2026, I.A. 9584/2026 & I.A. 9585/2026**

M/S H.R. CONSTRUCTION PRIVATE LIMITEDPetitioner

Through: Mr. Fahim Khan, Mr. Tabish Kamal,
Mr. Yousuf Ali & Mr. Mohd Amir,
Advs.

versus

**NATIONAL HIGHWAYS AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED
(NHIDCL)**Respondent

Through: Mr. Balendu Shekhar, Mr. Rajkumar
Maurya, Mr. Krishna Chaitanya, Mr.
Divyansh Singh Dev & Ms. Tanisha
Samanta, Advs.

**CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

ORDER
07.05.2026

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1. The present petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of an arbitrator.
2. The brief facts are that the petitioner entered into a contract agreement dated 24.03.2021 with the respondent for "Re-construction of 94Nos of culverts in the stretch from KM 298.00 to KM 330.662 (Kerala to Kalipur) of NH- 04, in the Union Territory of Andaman & Nicobar Islands." Dispute arose between the parties to the *lis*. The petitioner initially filed a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, being ARB.P. 254/2026, which was dismissed while granting liberty to the petitioner to take steps in accordance with law vide order dated 20.02.2026



on the ground that the notice invoking arbitration had not been addressed to the respondent in terms of Section 21 of the Act and the Contract Agreement. Pursuant thereto the petitioner by letter dated 21.02.2026 initiated arbitration proceedings invoking Clause 26.3 of the contract agreement. On failure to do the needful, the present petition was filed.

3. Learned counsel for the respondent submits that the petitioner did not invoke conciliation proceedings prior to initiation of arbitration proceedings, whereas learned counsel for the petitioner submits that the respondent was approached vide letter dated 01.09.2025, but failed to respond thereto. Learned counsel for the respondent further contends that the parties were required to resort to conciliation prior to invocation of arbitration. The relevant clause is as under:-

“26.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Authority’s Engineer, or such other person as the Parties may mutually agree upon (the “**Conciliator**”) to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Conciliator or without the intervention of the Conciliator, either Party may require such Dispute to be referred to the Chairman of the Authority and the Chairman of the Board of Directors of the Contractor for amicable settlement and upon such reference, the said person shall meet no later than 7 (seven) business days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 30 (thirty) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of the settlement within 30 (thirty) days of the notice in writing referred to in Clause 26.1.1 or such longer



period as may be mutually agreed by the Parties either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3 but before resorting to such arbitration, the parties agree to explore conciliation by the Conciliation Committees of the Independent Experts set up by the Authority in accordance with the procedure decided by the panel of such experts and notified by the Authority on its website including its subsequent amendments. In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration Act. In case of failure of the conciliation process even at the level of the Conciliation Committee, either party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3.”

4. Now, learned counsel for the respondent on instructions has no objection for referring the matter to arbitration.
5. Accordingly, the petition is allowed by appointing Justice Mr. Ali Mohammad Magrey (Retd.) (Mobile No.9469810810) as the sole arbitrator for adjudication of the disputes which have arisen between the parties.
6. The fees of the learned Arbitrator will be governed by Schedule IV of the Act. Before entering upon reference, the learned Arbitrator will comply with Section 12 of the Act.
7. It is made clear that since this Court has not expressed any opinion on the merits of the rival claims of the parties, it will be open for the parties to file their respective claims/counter claims before the learned Arbitrator which will be considered in accordance with law.



8. A copy of this order be forwarded to the learned Arbitrator for information.

AVNEESH JHINGAN, J

MAY 7, 2026
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