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

\# **CNR No. DLHC010145992026**

\+ ARB.P. 635/2026

M/S HARDEV CONSTRUCTION PVT. LTD .....Petitioner

Through: Mr. A.K. De and Ms. Ananya, Advocates.

versus

WAPCOS LIMITED & ORS. .....Respondents

Through: Mr. Tushar Sannu, SC for WAPCOS with Mr. Mohit Bhardwaj, Ms. Ankita Bhadouriya, Mr. Hardik Saxena & Mr. Shivam Parashar, Advocates for R-1 to 3.
Mr. Sudhanshu Prakash, Mr. Vaibhav Sabarwal, Mr. Abhyudaya Deshmanya and Mr. Eeshan Sinha, Advocates for R-4.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 12.10.2026

1. By way of the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"], the petitioner seeks the appointment of an arbitrator to adjudicate the disputes arising out of the contracts awarded by respondent No. 1 – WAPCOS Limited ["WAPCOS"], in favour of the petitioner pursuant to Letters of Award dated 25.04.2019 and 31.05.2022, issued in response to the Notice Inviting Tender dated 28.02.2019.

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2. The petitioner has impleaded WAPCOS as respondent No. 1, two officers of WAPCOS as respondent Nos. 2 and 3, and NTPC Mining Limited ["NML"] as respondent No. 4.

3. I have heard Mr. A.K. De, learned counsel for the petitioner, Mr. Tushar Sannu, learned Standing Counsel for WAPCOS, and Mr. Vaibhav Sabarwal, learned counsel for NML.

4. Mr. Sabarwal submits that NML is not a signatory to any contract with the petitioner.

5. It is the contention of Mr. Sannu that the contracts in question were entered into by WAPCOS on behalf of NML. Mr. Sannu, therefore, submits that NML would, therefore, be a necessary and proper party to the arbitral proceedings.

6. Mr. De, on the other hand, submits that NML is the principal on whose behalf WAPCOS issued the Notice Inviting Tender and acted in relation to the contracts in question. He, therefore, submits that an arbitrator may be appointed to adjudicate the disputes between the petitioner and WAPCOS, while reserving the petitioner's right to seek the impleadment of NML in the arbitral proceedings.

7. In view of the undisputed existence of an arbitration agreement between the petitioner and WAPCOS, contained in Clause 25 of the Notice Inviting Tender, and the invocation thereof, I am of the view that an arbitrator may to be appointed to adjudicate the disputes between them. As regards NML, it would be open to either the petitioner or WAPCOS to seek its impleadment in the arbitral proceedings, by way of an appropriate application before the learned Arbitrator. Any such application may be considered by the learned Arbitrator in accordance

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with law.

8. In view of the aforesaid, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

a) Hon'ble Ms. Justice Indu Malhotra, former Judge, Supreme Court of India [Tel.:9810026757] is appointed as the arbitrator to adjudicate the disputes between the petitioner and WAPCOS arising out of the aforesaid Letters of Award.

b) The arbitration shall be conducted under the aegis of the Delhi International Arbitration Centre ["DIAC"] and in accordance with the DIAC Rules, including with regard to the remuneration of the learned Arbitrator.

c) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act before entering upon the reference.

d) Either party may move an application before the learned Arbitrator for impleadment of NML, which is left open for consideration of the learned Arbitrator.

9. Needless to state, all rights and contentions of the parties, including those relating to arbitrability, the maintainability of the claims, and the merits of the disputes, are left open for adjudication by the learned Arbitrator.

10. The petition, alongwith any pending applications, stands disposed of.

PRATEEK JALAN, J

OCTOBER 12, 2026
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