



2026:DHC:4240



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5969/2026 and CM APPL. 29311/2026**

Date of decision: **04.05.2026****IN THE MATTER OF:**

M/S NEOMETRIX DEFENCE LTD

.....Petitioner

Through: Mr. Amarish Chandra Tiwari,
Advocate.

versus

ASSISTANT CHIEF OF AIR STAFF (PROCUREMENT) & ORS.

.....Respondents

Through: Mr.Rohan Jaitley CGSC, Mr.Akshay
Sharma, Mr.Dev Pratap Shahi,
Mr.Varun Pratap Singh,Mr.Yogya
Bhatia, Advocates along with Group
Capt.Gango Upadhyay, Wing CDR
G.K.Sharma**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)****CM APPL. 29312/2026 (for exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 5969/2026 and CM APPL. 29311/2026

1. The instant petition is for the following reliefs:-

“i. Quash and set aside the impugned termination order dated

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13.04.2026 issued by Respondent No. 2;

ii. In the alternative and without prejudice, direct the parties to refer the disputes arising out of the subject contract to arbitration in accordance with the terms thereof;

iii. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice."

2. The facts as stated by the petitioner are that pursuant to a Request for Proposal ('**RFP**') dated 10.01.2022 issued by the Indian Air Force, the petitioner was awarded a Development cum Supply Order dated 01.05.2023 (hereinafter "**Contract**") by Respondent No.2 from its office at Nagpur, Maharashtra. The petitioner was required to develop and supply one prototype of the 45 KVA GPU by 30.04.2024 and thereafter supply 12 units as per the Contract. Due to various challenges including engine certification and weight constraints, three delivery period extensions were granted by the respondents, the last being up to 30.10.2025. Two pre-dispatch inspections were conducted at the petitioner's facility at Pune, Maharashtra on 29-31.10.2025 and 10-13.12.2025. Despite the petitioner's subsequent communications seeking dispatch clearance, the respondents issued from Nagpur the order dated 13.04.2026 ("**Impugned Order**") terminating the Contract and ordering forfeiture of the bank guarantee.

3. The petitioner assails the Impugned Order as arbitrary, violative of natural justice and contrary to the contractual dispute resolution mechanism. The petitioner also seeks a restraint on invocation of the bank guarantee.

4. Mr. Rohan Jaitley, learned counsel, who appears on behalf of the respondents raises a preliminary objection regarding the maintainability of the instant writ petition. According to him, the contract was issued from Nagpur; supply was to take place from Nagpur; the final order has been

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issued by Head Quarters at Nagpur, and, therefore, the petitioner ought not to have approached this Court. He also submits that the agreement providing for the arbitration seat to be in Delhi, ought not to be the sole reason to entitle the petitioner to invoke the jurisdiction of this Court.

5. Learned counsel for the petitioner submits that it is not only arbitration, which has to take place in Delhi, even the respondent-Bank's head office is in Delhi, and, thus, this Court should entertain the present *lis*.

6. This Court in *The Indure Pvt. Ltd. v. Government of NCT of Delhi*,¹ took note of the decisions in *Shristi Udaipur Hotels v. Housing and Urban Development Corp.*,² *Riddhima Singh v. Central Board of Secondary Education*,³ *Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda and Ors.*,⁴ *Michael Builders and Developers Pvt. Ltd. v. National Medical Commission and Ors.*,⁵ which declare that the situs of the head office/registered office of the respondent, does not determine whether the Court has the requisite territorial jurisdiction to entertain a writ petition.

7. The Court in *The Indure Pvt. Ltd.* importantly noted, at para. 36:

“36. A petitioner who approaches this Court to assail a decision of an authority situated in Delhi, when the underlying cause for the said decision lies elsewhere, effectively attempts to make this High Court a mini-pan-India Superior Court exercising jurisdiction over all events which take place throughout this Country. There is no gainsaying with the proposition that every High Court is competent to adjudicate upon a lis which arises from events or actions taking place within its territory. Merely because the ultimate order, which is based on events taking place outside Delhi and takes cognizance of actions outside of Delhi, is passed within the jurisdiction of this Court, a writ petition ought not be entertained by this

¹ 2026:DHC:1605.

² 2014 SCC OnLine Del 2892.

³ 2023 SCC OnLine Del 7168.

⁴ 2024:DHC:6903-DB

⁵ 2024:DHC:7146.



Court.”

8. On the issue of the claimant approaching this Court on the ground that some of the respondent authorities, against whom the reliefs or directions are being sought, are situated within the jurisdiction of this Court, it was observed at para. 37-38:

“37. Naturally, being the capital of the Country, various authorities and bodies having pan-India jurisdiction would be located within the jurisdiction of this Court. Merely because the decision making authority happens to be in Delhi, ought not to be the sole reason to entertain a lis in this Court. The decision, no doubt, may be passed in the national capital, but it is usually against persons situated outside Delhi; and even more importantly, for actions which took place beyond the borders of this Court. The act of giving a hearing in Delhi, or the passing of an order in Delhi, is merely a result of a body/authority being situated in the national capital, it has nothing to do with the lis, the offending action, the legal injury or the foundational facts on the basis of which action is being taken.

38. The case-law cited above, makes repeated reference to “dominant facts”, and facts which are “material, essential and integral” to the lis in question. In most cases, the fact that the order is passed, or the head office is located, or that opportunity of hearing was afforded, within the jurisdiction of this Court is completely immaterial, non-essential, and non-integral to the dispute in question. Any of the aforementioned three aspects could very well have taken place in another part of the Country, it is for the sole reason that Delhi is the national capital, that, in most cases these factors get connected to the jurisdiction of this Court. From another lens, it may be seen that regardless of what the underlying facts or legal injury/infringement may be, the order impugned would, in an overwhelming number of cases be passed from Delhi. If this be the case, can this constant factum, which shall remain present in each case, be considered a “dominant fact” or a “material, essential and integral” fact? The answer must be in the negative.”

9. The Court emphasized that the substance of a matter must be adjudged, and not the unchanging constant which is present in every petition against a state-authority, to arrive at a conclusion on whether to entertain a petition in the context of territorial jurisdiction and *forum non conveniens*.



At para. 42 this Court observed:

“42. It is the substance of the matter which the Court must consider in determining the connection with Delhi. An order being passed by an authority in Delhi is an unchanging constant. This static/uniform facet, which is unmoved by the nature of the lis, ought not to determine where territorial jurisdiction would lie.”

10. In the facts of the instant case, the Impugned Order has not even been passed by an authority situated in Delhi. It has been issued by Respondent No. 2 from Nagpur, Maharashtra. The pre-dispatch inspections were conducted at Pune, Maharashtra. The place of performance of the contract was also outside the jurisdiction of this Court. The alleged non-compliance and delay arose from actions which took place outside the territorial limits of this Court.

11. The mere facts that the petitioner has its registered office in Delhi,⁶ that some of the respondents are situated in Delhi do not constitute the material, essential and integral part of the cause of action. To hold otherwise would be to permit the petitioner to invoke the jurisdiction of this Court on wholly incidental and cosmetic grounds.

12. Furthermore, the mere fact that the private agreement between the parties provides for the seat of arbitration to be in Delhi, would not bind or determine this Constitutional Court's jurisdiction. The said position of law has been succinctly captured in *The Indure Pvt. Ltd.* (supra), where while taking note of the decisions in *Durgapur Freight Terminal Pvt. Ltd. and*

⁶ Para. 17 of *The Indure Pvt. Ltd.* (supra) further reads as under: “17. A Division Bench of this Court in *Okhla Enclave Plot Holders Welfare Association v. State of Haryana and Ors.*, importantly, observed at para. 24-26 —the residence or location of the petitioners is not relevant to determine whether a Court has territorial jurisdiction to entertain a given petition.”



Anr. v. Union of India⁷ and Maharashtra Chess Association v. Union of India & Ors.⁸ the Court held as under:

“21. It may also be noted that parties cannot, through the means of a private agreement, require a writ Court to exercise jurisdiction in a case where it would not otherwise entertain a given petition. The Constitutional Court cannot be moulded to suit the fancies of parties expressed in their contract. In this connection this Court in Durgapur Freight Terminal Pvt. Ltd. and Anr. v. Union of India, has held:

“29. The petitioners' reliance on Clause 26.4.1 of the License Agreement to attract jurisdiction of this Court is also fundamentally flawed. Jurisdiction clauses in the contracts would decide the jurisdiction within which contractual disputes are resolved. Party autonomy is the reason for such choice being provided to contracting parties to chose a forum of their mutual choice in contractual disputes. However, when a party chooses to invoke extraordinary writ jurisdiction of a constitutional Court, the jurisdiction clause in the contract cannot be a guiding factor. Regardless, even in contracts, one cannot confer jurisdiction by way of jurisdiction clauses on a Court that does not have one. One can only confine jurisdiction to one of the two competent Courts that have jurisdiction. As already held, this Court lacks jurisdiction to start with, therefore, even under Clause 26.4.1 of the license agreement, this Court does not attract jurisdiction in the matter. The whole argument advanced by the petitioners on “seat v. venue” is misplaced. There is no need to refer to Clause 26.4.1 of the License Agreement dated 19.09.2012 to look for signs to find if this Writ Court will have jurisdiction.”

22. A converse situation emerged in Maharashtra Chess Association v. Union of India & Ors., where the By Laws of the second respondent therein i.e., the All India Chess Federation provided as under:

“21. Legal Course (i) The Federation shall sue and or be sued only in the name of the Hon. Secretary of the Federation. (ii) Any Suits/Legal actions against the Federation shall be instituted only in the Courts at Chennai, where the Registered Office of All India Chess Federation is situated or at the place where the Secretariat of the All India Chess Federation is functioning”

⁷ 2023 SCC OnLine Del 1254.

⁸ Civil Appeal No. 5654 of 2019; order dt. 29.07.2019.



23. *The Bombay High Court in light of the aforementioned Clause 21 declined to its jurisdiction under Article 226 of the Constitution of India claiming its jurisdiction had been ousted. The Supreme Court negating this finding, in strong words, declared:*

“25. In the present case, the Bombay High Court has relied solely on Clause 21 of the Constitution and Bye Laws to hold that its own writ jurisdiction is ousted. The Bombay High Court has failed to examine the case holistically and make a considered determination as to whether or not it should, in its discretion, exercise its powers under Article 226. The scrutiny to be applied to every writ petition under Article 226 by the High Court is a crucial safeguard of the rule of law under the Constitution in the relevant territorial jurisdiction. It is not open to a High Court to abdicate this responsibility merely due to the existence of a privately negotiated document ousting its jurisdiction.”

13. At its highest the case of the petitioner may amount to establishing that a part of cause of action has arisen without the territorial jurisdiction of this Court. However, the Supreme Court in the case of ***Kusum Ingots & Alloys Ltd. v. Union of India and Anr.***,⁹ has held that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit.

14. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of *forum conveniens*. The material portion of the aforementioned decision reads as under:

“*Forum conveniens*”

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In

⁹ (2004) 6 SCC 254



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appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of India [AIR 1994 Del 126] .]”

15. In view of the above, petition along with the pending application stands dismissed. Liberty is, however, granted in favour of the petitioner to approach the jurisdictional High Court to agitate the instant *lis*, if so advised

16. All rights and contentions of the parties are left open.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

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