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

+ O.M.P.(I) (COMM.) 216/2026

WAPCOS LIMITED

.....Petitioner

Through: Mr. Sanjay Jain, Senior Advocate with Mr. Tushar Sannu, Standing Counsel, Ms. Ankita Bhadouriya, Ms. Malvi Balyan, Mr. Vaibhav Tripathi, Mr. Fajallu Rehman and Ms. Harshita Sukhija, Advs.

Mr. Arun Arora, GM, IT, Mr. Shambhu Azad, C.E.D with Mr. Virendra Dhawan, Deputy C.E.

versus

CYFUTURE INDIA PRIVATE LIMITED

.....Respondent

Through: Mr. N.P.S. Chawla, Mr. Sujoy Datta, Mr. Surekh Kant Baxy, Mr. Abhinav Mishra and Mr. Abhishek Chhabra, Advs.

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+ O.M.P.(I) (COMM.) 171/2026, I.A. 11034/2026

CYFUTURE INDIA PRIVATE LIMITED

.....Petitioner

Through: Mr. N.P.S. Chawla, Mr. Sujoy Datta, Mr. Surekh Kant Baxy, Mr. Abhinav Mishra and Mr. Abhishek Chhabra, Advs.

versus

WAPCOS LIMITED & ANR.

.....Respondents

Through: Mr. Sanjay Jain, Senior Advocate with Mr. Tushar Sannu, Standing Counsel, Ms. Ankita Bhadouriya, Ms. Malvi Balyan, Mr. Vaibhav Tripathi,



Mr. Fajallu Rehman and Ms. Harshita Sukhija, Advs.

Mr. Arun Arora, GM, IT, Mr. Shambhu Azad, C.E.D with Mr. Virendra Dhawan, Deputy C.E.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
22.05.2026

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1. The present are cross-petitions under Section 9 of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"), wherein, the parties have sought urgent interim protections.
2. As per the case of the petitioner in *O.M.P. (I)(COMM.) 216/2026*, i.e., WAPCOS Limited ("WAPCOS"), the said petitioner had issued a Tender by way of a Request for Proposal ("RFP") dated 09th February, 2023, inviting bids for implementing an Enterprise Resource Planning ("ERP") across its offices, to ensure seamless exchange of information. The respondent in *O.M.P. (I)(COMM.) 216/2026*, i.e., CYFUTURE India Private Limited ("CYFUTURE") participated in the bidding process, and was awarded a Contract dated 02nd March, 2023, through the Government e-Marketplace ("GeM") platform.
3. Learned Senior Counsel appearing for WAPCOS submits that CYFUTURE failed to fulfil the stipulated terms within the timelines mentioned under the RFP, which includes the Agreement for Services under Section-V, i.e., Final Bid therein. Despite requests, no copy/back-up of the ERP software was provided by CYFUTURE. In view of continued non-



performance and fundamental breaches on the part of CYFUTURE, WAPCOS issued a Termination Order dated 16th April, 2026, in terms of the Agreement for Services, as contained in the RFP.

4. He further brings the attention of this Court to the order dated 22nd April, 2026 in *O.M.P.(I) (COMM.) 171/2026*, wherein, interim directions were passed by this Court in the following manner:

“xxx xxx xxx

24. Accordingly, considering the submissions made before this Court, the following directions are issued:

- i. The petitioner shall be granted time of two weeks for filing the reply to the notice dated 17th April, 2026, issued by the respondents proposing blacklisting.
- ii. After receipt of the reply of the petitioner, the respondents shall duly provide hearing to the petitioner and follow all the requisites of Principles of Natural Justice.
- iii. A Speaking Order shall be passed by the respondent, thereafter, which shall be duly provided to the petitioner.
- iv. If the petitioner is aggrieved by any order passed by the respondents, the petitioner shall be at liberty to avail remedies, in accordance with law.
- v. The petitioner is directed to approach the respondents immediately, in terms of Clause 16.1 of the General Terms and Conditions. Letter/E-mail, in this regard, shall be written by the petitioner to the respondents, within a period of one day.
- vi. Upon receipt of said letter/E-mail from the petitioner, the respondents shall immediately constitute a DRC for the purposes of resolving the disputes between the parties.
- vii. Notice shall be duly given to the petitioner to appear before the DRC.
- viii. All the issues, as raised by the petitioner, shall be duly considered by the DRC. Additionally, all efforts shall be made by the DRC to resolve the issues, including, issue of payments that are payable to the petitioner and plea of the petitioner for restoration of the Contract.
- ix. In case, the issues are not resolved by the DRC, the parties shall be at liberty to make a request to this Court for the purposes of appointment of an Arbitrator in terms of Clause 16.2 of the General Terms and Conditions.
- x. No further coercive steps shall be taken against the petitioner by the respondents, till the next date of hearing.
- xi. The petitioner shall take immediate steps to restore all the services of the respondents. The concerned technical experts and officials of the



petitioner shall extend full cooperation to the technical experts/officials of the respondents in restoring the services.

xii. The petitioner shall also handover the requisite password/pass code and data to the officials of the respondents, so that the services of the respondents are provided unhindered.

xiii. If the functions of the respondents are restored, in case of any other glitch, the petitioner shall extend all cooperation to the respondents to ensure that the services of the respondents are not hindered, in any manner whatsoever.

xiv. The restoration of the services of the respondents shall be done expeditiously, within the outer limit of 12 hours, counted from 12 in the afternoon today.

xxx xxx xxx”

5. By referring to the aforesaid order dated 22nd April, 2026, the learned Senior Counsel appearing for WAPCOS submits that though the password/passcode has been provided to WAPCOS, the data has to be accessed through the server. However, due to numerous glitches, WAPCOS is unable to access the data. Therefore, the purpose of giving the password/ passcode to WAPCOS by CYFUTURE, has become redundant.

6. He further relies upon the Agreement for Services, as comprised in the aforesaid RFP, and in particular, Clauses 6.7 and 11, which read as under:

“xxx xxx xxx

6.7 Cessation of Services

On the termination of this Agreement by notice of WAPCOS, Agency will take all necessary steps to bring the services to a close within Ten days of the receipt of the notice of termination. Upon cessation of services either on expiry of termination (including earlier termination) of the agreement hereunder, agency shall hand over to WAPCOS such material documents and records prepared directly by agency in connection with the services whether in final or draft form, complete or in the process of being completed, on paper and if applicable floppy diskettes together with material documents and records as provided by WAPCOS to agency save the copies thereof will be allowed to be retained by agency for their files.

xxx xxx xxx



11. Dispute Resolution

Any dispute, controversy or claims arising out of or relating to this Agreement or the breach, termination or invalidity thereof, shall be settled through following mechanism:

- a. Firstly, the aggrieved party shall write a letter to the other party detailing its grievances and calling upon the other party to amicably resolve the dispute by convening a joint meeting. Accordingly, the parties as per their convenience shall jointly convene the said meeting(s), wherein minutes of the said meeting(s) shall be prepared and countersigned by all the parties. It is mandatory to prepare minutes of meeting(s) and to be countersigned by all the parties, irrespective of the outcome of the said meeting(s).
- b. In the event the parties are unable to reach on any settlement in the said meeting(s) then the aggrieved party may resort to resolution of disputes through arbitration of a Sole Arbitrator. The appointing authority of Sole Arbitrator is CMD, WAPCOS Limited, to which neither of the parties have any objection nor they shall ever object.
- c. Subject to the parties agreeing otherwise, the Arbitration proceedings shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 (amended as on date).
- d. The place/seat of arbitration shall be Delhi and any award whether interim or final, shall be made, and shall be deemed for all purposes between the parties to be made, in Delhi. The arbitral procedure shall be conducted in English language and any award or awards shall be rendered in English. The procedural law of the arbitration shall be Indian Law. The award of the arbitrator shall be final and conclusive and binding upon the Parties.

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of India and the Parties submit to sole & exclusive jurisdiction of courts at Delhi.”

xxx xxx xxx”

7. In view of the aforesaid Clauses, learned Senior Counsel appearing for WAPCOS submits that upon the cessation of services/ termination of the Contract, the agency, i.e., CYFUTURE had to handover to WAPCOS all materials, documents and records prepared directly by CYFUTURE, including, on floppy disks. He, thus, submits that in order to access the data without any glitches, it is imperative that a hard-disk, along with password/ passcode, be handed over to WAPCOS.

8. He further submits that above-mentioned Clause 11 of the Agreement for Services, i.e., the Dispute Resolution Clause, provides that a Sole Arbitrator can be appointed in case of disputes between the parties, with place/seat of arbitration being at Delhi.



9. *Per contra*, learned counsel appearing for CYFUTURE submits that in terms of the order dated 22nd April, 2026, services have already been restored by CYFUTURE, and in cases where WAPCOS is facing any glitches, CYFUTURE is providing full support in regard thereto.

10. He further draws the attention of this Court to the Agreement for Services to submit that it is only a format for Agreement for Services, which has not been duly signed by the parties. He thus, disputes that CYFUTURE is governed by the said Agreement for Services given that CYFUTURE has not signed the Agreement for Services.

11. Learned counsel for CYFUTURE submits as per the General Terms and Conditions (“GTC”) dated 13th January, 2023, there is a certain mechanism for termination of the Contract, which has not been followed by WAPCOS. Therefore, the reliance placed by the learned Senior Counsel for WAPCOS on the Agreement for Service is totally misplaced, as by relying on the said Agreement, WAPCOS is trying to convert the Contract between the parties into a contract which is terminable at will/determinable contract, even though that is not the case.

12. He further submits that the governing clause between the parties is Clause 16 of the GTC, as per which the parties have already been referred to the Dispute Resolution Committee (“DRC”). Though DRC has been constituted, he however submits that no purpose has been served with regard thereto.

13. Learned counsel for CYFUTURE submits that though Clause 16.2 in the GTC, makes provision for appointment of a three-member Arbitral Tribunal, however, CYFUTURE has no objection if a Sole Arbitrator is appointed by this Court for the purpose of adjudicating the disputes, which



have arisen between the parties.

14. In this regard, Clause 16.2 of the GTC dated 13th January, 2023, reads as under:

“xxx xxx xxx

16.2 Arbitration:

In the event of any conflict / dispute arising out of or in connection with the Contract placed through GeM, which has not been resolved in accordance with the procedure laid down in Clause 16.1 above, the aggrieved Party may invoke Arbitration by sending a written notice to the other Party. The procedure for appointment of the Arbitral Tribunal shall be as follows.

- i. In cases where the total value of the Contract is less than INR 1, 00, 00,000/- (Indian Rupees One Crore only) the same shall be referred to a sole arbitrator mutually appointed by both the Parties.
- ii. Where the total value of the Contract exceeds INR 1,00,00,000/- (Indian Rupees One Crore only), the arbitration shall be conducted by a quorum of three arbitrators. Each party shall be entitled to appoint an arbitrator and the two party-appointed arbitrators shall within 30 (thirty) days from their nomination, appoint a third arbitrator i.e., the Presiding Arbitrator.
- iii. In case of failure to appoint the Presiding Arbitrator within a period of 30 (thirty) days from the date of nomination of the two arbitrators by the respective parties, the aggrieved party shall approach the High Court (under whose jurisdiction the principal place of business of the Buyer department/ organization is located) to appoint the Presiding Arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 (as amended up to date).
- iv. The arbitration shall be conducted in the English language. Arbitration proceedings can also be conducted online, as per the discretion of the Arbitral Tribunal.
- v. The cost of the Arbitration shall be equally borne by both the Parties.
- vi. The award of the arbitrator shall be final and binding on the Parties to the Contract. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996, as amended up to date. The seat of arbitration shall be at the place where the principal place of business of the Buyer department / organization is located.
- vii. The Contract shall be interpreted and governed in all respects in accordance with the laws of India. All disputes in connection with or arising out of the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the Buyer department / organization is located.



xxx xxx xxx”

15. In response, learned Senior Counsel appearing for WAPCOS draws the attention of this Court to the Contract dated 02nd March, 2023, which is attached as *Document-3* in *O.M.P.(I) (COMM.) 171/2026*, and in particular, to the Preamble of the Special Terms and Conditions (“STC”) therein, which is reproduced as under:

“xxx xxx xxx

1. Preamble

A. All contracts related to milestone-based hiring of Agencies for IT Projects placed through GeM shall be governed by the following set of Terms and Conditions:

I. General terms and conditions for Goods and Services.

II. Service STC contained in this document

III. BBO / Reverse Auction specific ATC

B. The above terms and conditions are in reverse order of precedence i.e. ATC supersedes Service specific STC which supersedes GTC, whenever there are any conflicting provisions.

C. This document represents the Special Terms and Conditions (STC) and the Service Level Agreement (SLA) governing the contract between the Government/Buyer and Agency/Service Provider. The purpose of this document is to outline the scope of work, stakeholders' obligations and terms and conditions of all services covered as mutually understood by the stakeholders.

xxx xxx xxx”

16. By referring to the aforesaid, learned Senior Counsel appearing for WAPCOS submits that the Preamble categorically states that the terms and conditions are in reverse order of precedence, i.e., the Additional Terms and Conditions (“ATC”) supersedes the STC, which in turn supersedes the GTC.

17. He further draws the attention of this Court to the note contained at the end of the Contract dated 02nd March, 2023, which is reproduced as under:

“xxx xxx xxx

Note: This is system generated file. No signature is required.

नोट: यह सिस्टम जनरेटेड फाइल है। कोई हस्ताक्षर की आवश्यकता नहीं है।

xxx xxx xxx”

18. By referring to the aforesaid, he submits that since the file is system-



generated, no signatures were required. Thus, the parties are fully governed by the Agreement for Services.

19. He further submits that WAPCOS consents to the appointment of a Sole Arbitrator.

20. This Court notes the submission made by learned Senior Counsel appearing for WAPCOS, that they have an approximate claim of Rs. 20 Crores, as well as the submission made on behalf of learned counsel for CYFUTURE that they have an approximate claim of Rs. 5.5 Crores.

21. This Court further records the submission made by learned Senior Counsel appearing for WAPCOS that arbitration be conducted under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (“DIAC”).

22. Further, the statement made by learned counsel for CYFUTURE that they shall hand over to WAPCOS, a hard disk along with password/passcode, is taken on record.

23. Accordingly, this Court is satisfied that there are disputes between the parties, and the disputes are to be resolved by way of referring the parties to arbitral proceedings.

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

- i) Justice (Retd.) J.R. Midha, former Judge of this Court, is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration proceedings shall be held under the aegis and Rules of DIAC, Delhi High Court, Sher Shah Road, New Delhi.
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators’ Fees) Rules, 2018.



- iv) The learned 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 of any impediment to the Arbitrator's appointment on that Count, the parties are given liberty to file an appropriate application before this Court.
 - v) It shall be open to both the parties to raise their claims/counter-claims, in arbitration proceedings.
 - vi) It is made clear that all the rights and contentions of the parties, including, as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.
 - vii) The parties shall approach the learned Arbitrator within two (02) weeks from the date of appointment of the Arbitrator.
 - viii) The interim directions as passed by this Court *vide* order dated 22nd April, 2026 shall continue to be complied with.
 - ix) CYFUTURE shall handover the hard disk to the WAPCOS with password/ passcode. The same shall be done within a period of one day.
 - x) Both the parties are at liberty to move applications under Section 17 of the Arbitration Act, before the learned Arbitrator with regard to the prayers made under the present petitions under Section 9 of the Arbitration Act.
25. It is made clear that this Court has not expressed any opinion on the merits of the case.
26. Accordingly, the present petitions, along with the pending application, are disposed of in the aforesaid terms.
27. The Registry is directed to send a copy of this order to the Secretary, DIAC, as well as the learned Arbitrator, for information and compliance.



MINI PUSHKARNA, J

MAY 22, 2026/KR