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

+ **ARB.P. 1913/2025**

**RADHEY SHYAM SHARMA PROPRIETOR OF M/S R S
CONSTRUCTION COMPANY**

.....Petitioner

Through: Mr. Rohan Taneja, Mr. Raghav Kalra
and Mr. Animesh Dubey, Advs.

versus

GOVERNMENT OF NCT OF DELHI

.....Respondent

Through: Ms. Nitika Bhutani, Adv. for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

23.01.2026

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1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 (in short, 'Act'), the petitioner seeks appointment of an Arbitrator to adjudicate disputes between the parties under the Agreement dated 10.07.2019.

2. The parties are *ad idem* that the clause 25 of the GCC contains arbitration clause. The said arbitration clause reads as under:

“CLAUSE 25

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings specifications, estimates, instructions, orders or these



conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:

(i) If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge or if the Engineer in Charge considers any act or decision of the contractor on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable and is disputed, such party shall promptly within 15 days of the arising of the disputes request the Chief Engineer or where there is no Chief Engineer, the Additional Director General (CE/ADG) who shall refer the disputes to Dispute Redressal Committee (DRC) within 15 days along with a list of disputes with amounts claimed if any in respect of each such dispute. The Dispute Redressal Committee (DRC) shall give opposing party two weeks for a written response, and, give its decision within a period of 60 days extendable by 30 days by consent of both the parties from the receipt of reference from CE/ADG. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule 'F'. Provided that no party shall be represented before the Dispute Redressal Committee by an advocate/legal counsel etc.

If the Dispute Redressal Committee (DRC) or expiry of time limit given above, then either party may within a period of 30 days from the receipt of the decision of Dispute Redressal Committee (DRC), give notice to the Chief Engineer, CPWD, in charge of the work or if there be no Chief Engineer, the Additional Director General of the concerned region of CPWD or if there be no Additional Director General, the Director General, CPWD (CE/ADG/DG) for appointment of arbitrator on prescribed proforma as per Appendix XV under intimation to the other



party.

It is a ... invoking arbitration.

The CE/ADG/DG shall in such case appoint the sole arbitrator or one of the three arbitrators as the case may be within 30 days of receipt of such a request and refer such disputes to arbitration. Wherever the Arbitral Tribunal consists of three Arbitrators, the contractors shall appoint one arbitrator within 30 days of making request for arbitration within 30 days of making request for arbitration or of receipt of request by Engineer-in-charge of CE/ADG/DG for appointment of arbitrator, as the case may be, and two appointed arbitrators shall appoint the third arbitrator who shall act as the Presiding Arbitrator. In the event of

- a. A party fails to appoint the second Arbitrator, or*
- b. The two appointed Arbitrators fail to appoint the Presiding Arbitrator, then*

The Director General, CPWD shall appoint the second or Presiding Arbitrator as the case may be.

(ii) Disputes or difference shall be referred for adjudication through arbitration by a Tribunal having sole arbitrator where Tendered Value is more than Rs. 100 Crore, Tribunal shall consist of three Arbitrators as above. The requirements of the Arbitration and Conciliation Act, 1996 (26 of 1996) and any further statutory modifications or re-enactment thereof and the rules made there under and for the time being in force shall be applicable.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed, if any, in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the decision of the DRC.

It is also a term of this contract that any member of the Arbitration Tribunal shall be a Graduate Engineer with



experience in handling public works engineering contracts at a level not lower than Chief Engineer (Joint Secretary level of Government of India). This shall be treated as a mandatory qualification to be appointed as arbitrator.

Parties, before or at the time of appointment of Arbitral Tribunal may agree in writing for fast track arbitration as per the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015.

Subject to provision in the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015 whereby the counter claims if any can be directly filed before the arbitration without any requirement of reference by the appointing authority, the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and given separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs.1,00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator, these shall be paid as per the Act.

The place of arbitration shall be as mentioned in Schedule F. In case there is no mentioned place of arbitration, the arbitral tribunal shall determine the place of arbitration.

The venue of the arbitration shall be such place as may be fixed by the Arbitral Tribunal in consultation with both the parties. Failing any such agreement, then the Arbitral Tribunal shall decide the venue.”

(emphasis supplied)

3. Mr. Rohan Taneja, learned counsel appearing on behalf of the petitioner submits that pre-arbitration mechanism as provided under the aforesaid clause has already been exhausted by the petitioner, which position is not disputed by Ms. Nikita Bhutani, learned counsel for the respondent.



4. He further submits that the arbitration clause also mandates that the member of the Tribunal shall be a graduate engineer with experience in handling public works engineering contracts at a level not lower than Chief Engineering (Joint Secretary level of Government of India).
5. In view of the above, the disputes under the Agreement dated 10.07.2019 are referred to Arbitration, under the aegis of Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi-110003 (DIAC).
6. The DIAC is requested to nominate an Arbitrator from the panel of Engineers who qualifies the mandate of clause 25 of the Agreement.
7. The proceedings will be governed by the Rules of DIAC including as to the remuneration of the learned Arbitrator.
8. The learned Arbitrator is requested to furnish declaration under Section 12 of the Act, prior to entering upon the reference.
9. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitral Tribunal.
10. The petition stands disposed of in the above terms.

VIKAS MAHAJAN, J

JANUARY 23, 2026

N.S. ASWAL