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

+ **W.P.(C) 17470/2025 and CM APPL. 72089/2025**

GROSON ENGINEERS

.....Petitioner

Through: Mr. Chetan Joshi and Ms. Aprajita
Arya, Advocates.

versus

M/S RAJIV AGGARWAL & ANR.

.....Respondents

Through: Ms. Pratima N Lakra CGSC with
Mr. Shailendra Kumar Mishra Mr
Chanakya Kene, Advocate for R-2.
Mr. Vinay Kaushik GP

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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27.01.2026

1. The present petition assails the order dated 21.10.2025 passed in the ongoing arbitration between the petitioner and respondent no. 1, rejecting the petitioner/claimant's application to lead an additional witness i.e., Junior Electrical Engineer, CPWD, (hereinafter "**said Order**"). The said Order is assailed before this Court invoking its extra-ordinary public law writ jurisdiction. The relief clause in the petition reads as under:

- "a) Set aside the order dated 21.10.2025 and direct the concerned official of Respondent No. 2 to appear before the Ld. Arbitrator along with the documents pertaining the contract with Respondent No. 1; and/or*
b) In the meantime; pending disposal of the Writ Petition; stay of the arbitral proceedings; and/or
c) Pass any other order(s) / direction(s) as this Hon'ble Court may deem fit



and appropriate in the facts and circumstances of the present case.”

2. Learned counsel for the petitioner submits that by way of the its application dated 06.10.2025, the petitioner sought to summon the witness from CPWD, for the purposes of production and authentication of, *inter alia*, a purported measurement book. The petitioner submits that the exit and entry of the petitioner’s staff was being recorded by the CPWD officials and if the measurement book is allowed to be produced on record, the same would justify the petitioner’s claim in its arbitration proceedings. The petitioner also submits that the aforesaid exercise would not prejudice the respondents’ case.

3. I have considered the submissions made by learned counsel for the petitioner and also perused the record.

4. The order passed by the Arbitral Tribunal would also importantly indicate that earlier as well the petitioner herein had attempted to seek a direction against the CPWD to place on record the measurement book. Upon the Arbitration Tribunal rejecting the same *vide* order dated 31.12.2024, proceedings/litigation was initiated till the L.P.A. Court. Having remained unsuccessful in that round, the petitioner filed the application dated 06.10.2025, which came to be rejected by the said Order, and the instant petition assailing the same. The material portion of the said Order reads as under:

“8. AT has considered the submission of both the parties and decide the as under:

9. AT observes that the Claimant has moved the present application for leading additional witness on the pre-text that the proposed witness of CPWD, is competent to depose the documents specially the measurement books, indemnity bond, executed during the course of the contract, the account of the material supplied by the Claimant and utilized in the work and also the copies of the bills paid to the Respondent by CPWD.



10. AT observes that the Claimant's present petition is for non/less payment of supplied material by the Claimant, to the Respondent. AT find that for supply of material to any party, the primary and the basic documents are the agreement entered between the parties for supply of material, bills raised at the time of supply, Challans for the receipt of the material by the other party, and the payments received against the supply. AT find that the documents, (as listed above) intended to be proved through the witness of CPWD, are not the primary and the basic documents related to supply of material by the Claimant.

11. AT further observes that the Claimant has not filed any document, wherein the Claimant was the party to the agreement entered by the Respondent with CPWD. Furthermore, the Claimant has also not shared any document, wherein the Respondent was required to procure the material only from the Claimant for execution of CPWD contract, to which the Claimant has proposed to prove the documents through the witness from CPWD. In the absence of any cogent document for supply of material, only from the Claimant, for execution of the said contract, the documents proposed to be proved by the Claimant through the said witness of CPWD, has no relevance.

12. AT observes that the Claimant has already led evidences by way of affidavits including the additional affidavit for the additional documents i.e. measurement books filed by the Claimant and the witness has been cross examined by the other party, and their evidence statement has been recorded.

13. AT observes that the Claimant has also moved an earlier application dated 03.12.2024, for allowing additional witness from CPWD, and the same was rejected by this Arbitral Tribunal vide its order dated 31.12.2024, wherein it was clearly recorded that the witness from CPWD, has no locus standi with the present claim petition.

14. Since, in the present application, the Claimant has failed to submit any cogent document establishing the direct relationship of CPWD officer with the present claim petition, which is primarily for supply of material and non/less payment for the supplied material by Claimant, and therefore, the present application is devoid of merit. Accordingly, AT decide to reject the application for additional witness from CPWD, filed by the Claimant."

5. The aforesaid observations, contained in the said Order, would clearly indicate that the petitioner, effectively, is attempting to cover up his case, which has not been set out in the statement of claim, which is akin to a deception, simply impermissible in law. It is trite law that what cannot be directly can also not be done indirectly. Even otherwise, the jurisdiction of



this Court under Article 227 of the Constitution of India against an interlocutory order passed by the Arbitral Tribunal ought to be minimal. It is only orders which evince, on their face, palpable illegality or a non-application of mind, which are required to be interfered with. It must not be lost sight of, that arbitration is a private adjudicatory system, chosen by the parties themselves. Words, must not be minced, parties voluntarily chose the method of arbitration to opt out of the conventional court mechanism; the traditional litigation-mechanism ought not to be brought back, by entertaining, casually, writs against interlocutory orders passed by the Arbitral Tribunal.

6. Considering the facts and circumstances of the case, and the discussion above, the Court does not find any reason to interdict the said Order. The petitioner shall, however, be at liberty to agitate its grievance at the stage of Section 34 of the Arbitration and Conciliation Act, 1996, if such a stage at all arises.

7. With the aforesaid observations, the instant petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

JANUARY 27, 2026

Nc/ksr