



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

Date of decision: 13th JANUARY, 2026

IN THE MATTER OF:

+ **O.M.P. (T) (COMM.) 126/2025 & I.A. 31564/2025**

OIL AND NATURAL GAS CORPORATION LTDPetitioner

Through: Mr. Chetan Sharma, ASG, Mr. R. V. Prabhat, Mr. Amit Gupta, Mr. Shubham Sharma, Mr. Vikramaditya Singh, Mr. Yash Wardhan Sharma, Mr. Naman, Mr. Daksh Pandit, Mr. Neeraj Paulose Raj, Advs. and Mr. Bharat Pandey, Legal Officer

versus

PLANETCAST TECHNOLOGIES LTD

.....Respondent

Through: Mr. Anshu Mahajan with Ms. Anjali Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present Petition under Section 14(2) read with Section 32(2)(c) of the Arbitration and Conciliation Act, 1996, (*hereinafter referred to as 'the Arbitration Act'*) has been filed by the Petitioner seeking termination of the mandate of the Arbitral Tribunal as well as the arbitration proceedings.
2. It is the case of the Petitioner that the Arbitral Tribunal has failed to act in accordance with the mandate of the Arbitration Act which provides for speedy and cost effective mode of dispute resolution.
3. Shorn of unnecessary details, the facts, in brief, leading to the present Petition are as under:

- a. The Petitioner, which is a Public Sector Undertaking, awarded a



contract to the Respondent for setting up of *Point to Multi Point Radio System for North East and Southern Assets of ONGC to provide communication facilities in remote areas of North East and Southern Assets*. It is stated that the Contract Agreement was entered into on 31.07.2012.

- b. It is stated that disputes arose between the parties regarding the mode and manner of the execution of the contract and the Petitioner herein terminated the Contract and invoked the bank guarantees deposited by the Respondent. It is stated that Clause 1.3.22 of the Contract Agreement contains an Arbitration Clause which provides that disputes arising between the parties under the Agreement shall be decided by means of Arbitration.
- c. It is stated that Respondent herein filed a Petition under Section 9 of the Arbitration Act challenging the invocation of the Bank Guarantee by the Petitioner. On 12.03.2015, the Respondent herein issued a Notice under Section 21 of the Arbitration Act, invoking Arbitration in accordance with the Arbitration Clause. Accordingly, a three member Arbitral Tribunal was constituted to adjudicate upon the disputes which have arisen between the parties.
- d. The Arbitral Tribunal entered reference on 28.01.2016. Pleadings were completed on 31.08.2016. Cross-examination of the Petitioner's witness was concluded on 13.02.2019. On 08.05.2019, the Arbitral Tribunal directed the parties to file written submissions within nine months. The Arbitral Tribunal fixed the dates of arguments on 06.03.2021. However, Covid-



19 pandemic struck and subsequent hearings were cancelled.

- e. It is stated that after the period of Covid-19 pandemic was over, on 23.02.2022 the Arbitral Tribunal informed the parties that despite the Orders of the arbitral Tribunal, written submissions on behalf of the parties have not been filed. The Arbitral Tribunal informed the parties that dates for arguments will be finalised only after written submissions are filed by the parties.
- f. For more than three years there was a complete silence on the part of the Arbitral Tribunal and on the part of the parties. On 24.08.2025, the Nominee Arbitrator of the Petitioner herein wrote an e-mail to the Presiding Arbitrator and marked the same to the Nominee Arbitrator of the Respondent herein and to the learned Counsels for the parties as well, requesting the Presiding Arbitrator that since about nine years have elapsed and written submissions have yet not been filed by the parties, it would be appropriate to give a seven days' notice to the parties for closure of the Arbitral proceedings.
- g. On 25.08.2025, the Presiding Arbitrator resigned from his position.
- h. By an e-mail dated 25.08.2025, the Nominee Arbitrator of the Petitioner herein directed the parties to take necessary steps for reconstitution of the Arbitral Tribunal. The said mail specifically states that *"In case the parties are desirous of continuing the arbitral proceedings, then may take steps necessary for reconstitution of the tribunal."* Vide e-mail dated 26.08.2025, learned Counsel for the Respondent/Claimant,



acknowledged the gross delay in filing the Written Submissions by both the parties and tendered his unqualified apology for the same and beseeched the Presiding Arbitrator not to resign from the Tribunal as that would delay the Arbitration proceedings. In the same mail it was also prayed that a week's time be given to the parties to file their written submissions and post the matter for hearing thereafter.

- i. *Vide* another e-mail dated 29.08.2025, the Nominee Arbitrator of the Petitioner informed the parties that they can initiate the process of nominating the Presiding Arbitrator only if a joint request is received from the Counsels of both the parties or their authorised representatives.
- j. *Vide* e-mail dated 17.09.2025 the Nominee Arbitrator of the Petitioner informed the parties that they have received a communication from the learned Counsel for the Petitioner wherein the learned Counsel for the Petitioner had sought discharge from the matter and had also sought for 20 days' time on behalf of the Petitioner to engage another Counsel. The newly appointed Counsel for the Petitioner sent an email dated 12.11.2025 to the Nominee Arbitrators objecting to any further steps being taken by the Nominee Arbitrators for appointment of a Presiding Arbitrator or revival of the arbitral proceedings. In the said e-mail it is stated that the arbitral proceedings be treated as having lapsed or infructuous and/or abandoned in light of the prolonged delay and resignation of the Presiding Arbitrator.



- k. The Co-Arbitrators have sent an e-mail dated 10.12.2025 to Justice Swatanter Kumar, Former Judge of the Supreme Court of India, nominating him as the Presiding Arbitrator. In the said e-mail it was further informed that Justice Swatanter Kumar has accepted the nomination.
- l. It is this communication which has resulted in filing of the present Petition.
4. Learned ASG appearing for the Petitioner submits that the Arbitral Tribunal has delayed the proceedings and that continuation of the arbitral proceedings has become unnecessary and impossible. He states that the mandate of the Arbitral Tribunal has to be terminated and the Nominee Arbitrators cannot be permitted to appoint the Presiding Arbitrator. Learned Counsel for the Petitioner places reliance on Dani Wooltex Corpn. v. Sheil Properties (P) Ltd., (2024) 7 SCC 1, and Harshbir Singh Pannu v. Jaswinder Singh, 2025 SCC OnLine SC 2742, to substantiate his contention.
5. *Per contra*, learned Counsel for the Respondent states that the Petitioner has itself not filed the written submissions and it cannot take advantage of its own wrong and then seek for termination of the mandate of the Arbitral Tribunal. He states that it is very unfair on the part of the Petitioner for praying for termination of the mandate of the Arbitral Tribunal after being the defaulting party itself.
6. Heard the learned Counsels for the parties and perused the material on record.
7. The Courts have consistently emphasized the necessity of speedy conclusion of the Arbitral proceedings. The purpose of the arbitration is to provide a fair, speedy and inexpensive trial by the arbitral tribunal.



Unnecessary delay or expenses frustrates the very purpose of the Arbitration Act. The Apex Court in Dani Wooltex Corpn. (supra) has observed as under:

“12. The Arbitration Act has two provisions for terminating an arbitrator's mandate. Sections 14 and 15 are the relevant sections. The arbitrator is empowered to withdraw from his office, which terminates his mandate. However, the arbitral proceedings continue by the arbitrator's substitution.

14. On a conjoint reading of Sections 14 and 15, it is apparent that an arbitrator always has the option to withdraw for any reason. Therefore, he can withdraw because of the parties' non-cooperation in the proceedings. But in such a case, his mandate will be terminated, not the arbitral proceedings.

15. Now, we come to Section 32 of the Arbitration Act, which reads thus:

“32. Termination of proceedings.—(1) The arbitral proceedings shall be terminated by the final arbitral award or by an order of the Arbitral Tribunal under sub-section (2).

(2) The Arbitral Tribunal shall issue an order for the termination of the arbitral proceedings where—

(a) the claimant withdraws his claim, unless the respondent objects to the order and the Arbitral Tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,

(b) the parties agree on the termination of the



proceedings, or

(c) the Arbitral Tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) Subject to Section 33 and sub-section (4) of Section 34, the mandate of the Arbitral Tribunal shall terminate with the termination of the arbitral proceedings.” (emphasis supplied)

16. *Section 32 provides for the termination of the arbitral proceedings in the following contingencies:*

(a) On making final arbitral award;

(b) On the claimant withdrawing his claim as provided under clause (a) of sub-section (2) of Section 32;

(c) Parties agreeing on termination of arbitral proceedings as provided under clause (b) of sub-section (2) of Section 32; or

(d) When the Arbitral Tribunal finds that the continuation of proceedings has become unnecessary or impossible for any other reason, as provided under clause (c) of sub-section (2) of Section 32.

17. *Therefore, clause (c) of sub-section (2) of Section 32 can be invoked for reasons other than those mentioned in sub-section (1) of Section 32 and clauses (a) and (b) of sub-section (2) of Section 32. Under clause (c), the mere existence of a reason for terminating the proceedings is not sufficient. The reason must be such that the continuation of the*



proceedings has become unnecessary or impossible. In a given case, when a claimant files a claim and does not attend the proceedings, clause (a) of Section 25 comes into operation, resulting in the learned arbitrator terminating the proceedings. If, after filing a claim, the claimant fails to appear at an oral hearing or fails to produce documentary evidence, it cannot be said that the continuation of proceedings has become unnecessary. If the claimant fails to appear at an oral hearing after filing the claim, in view of clause (c) of Section 25, the learned arbitrator can proceed with the arbitral proceedings. The fact that clause (c) of Section 25 enables the Arbitral Tribunal to proceed in the absence of the claimant shows the legislature's intention that the claimant's failure to appear after filing the claim cannot be a ground to say that the proceedings have become unnecessary or impossible.

25. To conclude:

25.1. *The power under clause (c) of sub-section (2) of Section 32 of the Arbitration Act can be exercised only if, for some reason, the continuation of proceedings has become unnecessary or impossible. Unless the Arbitral Tribunal records its satisfaction based on the material on record that proceedings have become unnecessary or impossible, the power under clause (c) of sub-section (2) of Section 32 cannot be exercised. If the said power is exercised casually, it will defeat the very object of enacting the Arbitration Act;*

25.2. *It is the Arbitral Tribunal's duty to fix a meeting for hearing even if parties to the proceedings do not make such a request. It is the duty of the Arbitral Tribunal to adjudicate upon the dispute referred to it.*



If, on a date fixed for a meeting/hearing, the parties remain absent without any reasonable cause, the Arbitral Tribunal can always take recourse to the relevant provisions of the Arbitration Act, such as Section 25;

25.3. The failure of the claimant to request the Arbitral Tribunal to fix a date for hearing, per se, is no ground to conclude that the proceedings have become unnecessary; and

25.4. The abandonment of the claim by a claimant can be a ground to invoke clause (c) of sub-section (2) of Section 32. The abandonment of the claim can be either express or implied. The abandonment cannot be readily inferred. There is an implied abandonment when admitted or proved facts are so clinching that the only inference which can be drawn is of the abandonment. Only if the established conduct of a claimant is such that it leads only to one conclusion that the claimant has given up his/her claim can an inference of abandonment be drawn. Even if it is to be implied, there must be convincing circumstances on record which lead to an inevitable inference about the abandonment. Only because a claimant, after filing his statement of claim, does not move the Arbitral Tribunal to fix a date for the hearing, the failure of the claimant, per se, will not amount to the abandonment of the claim.”

8. The issue which arises in the present case as to whether this Court should terminate the arbitral proceedings because one of the parties does not want the Nominee Arbitrator to proceed further and appoint the Presiding Arbitrator. There are only four provisions which speak of termination of arbitral proceedings by an arbitrator and those are Section 25 (a), Section 30



(2), Section 32 and Section 38 of the Arbitration Act. The issue as to how the arbitration proceedings are terminated is no longer *res integra* and has been decided by the Apex Court in Harshbir Singh Pannu (supra) has held has under:

“48. Before we proceed to consider whether the order of termination of the arbitral proceedings for non-payment of fees passed by the Sole Arbitrator could be said to be contrary to law, more particularly, the decision of this Court in Afcons (supra), we must first try to understand what is the meaning and effect of “termination of arbitral proceedings” under the Act, 1996.

49. The Act, 1996 nowhere defines the expression “termination” or “termination of arbitral proceedings”. However, these expressions are referred to in numerous instances within the Act, which we shall outline hereinafter.

50. Under the Act, 1996 there are only four provisions which speak of termination of arbitral proceedings by an arbitrator, those being, Section 25 sub-section (a), Section 30 sub-section (2), Section 32 and Section 38, respectively.

51. We must first look into Section 25 of the Act, 1996. The same reads as under:—

“25. Default of a party.—

Unless otherwise agreed by the parties, where, without showing sufficient cause,—

(a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall



terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with sub-section (1) of section 23, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant and shall have the discretion to treat the right of the respondent to file such statement of defence as having been forfeited.

(c) a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.”

52. *Section 25 sub-section (a) of the Act, 1996, provides for the termination of arbitral proceedings by an arbitrator on the ground of default on the part of the claimant. It stipulates that, where a claimant fails to provide a statement of his claim(s) in terms of Section 23, without showing any sufficient cause for such failure, the arbitral tribunal shall terminate the proceedings.*

53. *Section 25 sub-section(s) (b) and (c) further clarify that, any default in filing of the statement of defence by the respondent or a default in appearance or production of any evidence, respectively, shall not constitute a ground for termination of the arbitral proceedings.*

54. *The expression “the arbitral tribunal shall terminate the proceedings” used in sub-section (a) Section 25 indicates that in the absence of any agreement to the contrary, it would be mandatory for the arbitral tribunal to terminate the arbitral*



proceedings, where the claimant defaults in either filing or communicating its statement of claim(s) in the manner provided under Section 23 of the Act, 1996.

55. On the other hand, the words “the arbitral tribunal shall continue the proceedings” employed in sub-section (b) of Section 25 indicates that, if the respondent fails to either file or communicate its statement of defence, the same shall not be ground to terminate the proceedings, and the arbitral tribunal would be mandatorily required to continue the proceedings.

56. Whilst continuing with the proceedings, it would be within the discretion of the arbitral tribunal to either forfeit the right of the respondent to file its statement of defence, or to permit the filing of the same by condoning the default, if sufficient cause is shown. However, any failure in filing of the statement of defence, shall not be treated as an admission of the allegations by the claimant.

57. The purport behind requiring the arbitral tribunal to continue with the proceedings, even when the respondent chooses to not file its statement of defence, is to ensure that the arbitral proceedings are not frustrated by any devious respondent, who may not be inclined to have the adjudication reach its logical conclusion. It is to prevent the arbitration process from being abused and subverted by a party who, through deliberate inaction, seeks to impede its culmination.

58. Lastly, Section 25 sub-section (c) deals with a situation, where any party either fails to appear before the arbitral tribunal or produce any documentary evidence, that may be required by the arbitral tribunal. In such a scenario, the said provision empowers the arbitral tribunal to continue with the proceeding, and



pass an award based on the evidence before it, irrespective of the non-appearance of any party or the non-production of any evidence.

59. *The use of the expression “may continue the proceedings and make the arbitral award” in Section 25 sub-section (c) is particularly noteworthy.*

60. *Unlike sub-section(s) (a) and (b), which expressly provide the consequence of any default by the parties in complying with the requirements laid down therein, namely, that the arbitral proceedings shall terminate and shall not terminate, respectively, Section 25 sub-section (c) is conspicuously silent on any such consequence.*

61. *Even though Section 25 sub-section (c), by use of the word “may”, leaves it to the wisdom of the arbitral tribunal to continue the proceedings and make an award, it nowhere empowers the arbitral tribunal to terminate the proceedings, where it chooses to not continue the proceedings and make an award.*

62. *This nuanced distinction between Section 25 sub-section(s) (a) and (b) on one hand, and sub-section (c) on the other, is of vital importance for the purpose of understanding the scope of Section 32 of the Act, 1996, more particularly, sub-section (2)(c), thereof.*

63. *How this plays out vis-à-vis the legislative scheme of Act, 1996, particularly in respect of ‘termination of proceedings’ shall be discussed in more detail, in the latter parts of this judgment.*

64. *The substantive part of Section 25 stipulates that the rigours of the said provision are subject to any agreement by the parties in this regard, or the existence of any sufficient cause for a default in either*



the filing of a statement of claim or defence, the production of any evidence or in appearing before the arbitral tribunal.

65. In other words, under Section 25, it is open for the parties to agree on the procedure or course of action which is to be followed by the arbitral tribunal, in the event of any default on part of either parties, in the filing, production or appearance before the arbitral tribunal.

66. The parties, by an agreement in this regard, may choose that the non-filing of a statement of claim shall not be a ground for termination of arbitral proceedings, or vice-versa, that a default in the same even if it has occasioned by a sufficient cause, shall be a ground for termination of the proceedings.

67. However, in the absence of any such agreement, the rigours of Section 25, in the even of any default by the parties in complying with the requirements laid down therein, will only spring into action where such default is “without sufficient cause”.

68. We say so because, the substantive part of Section 25 opens with the words “where, without showing sufficient cause,—”. A plain reading of the aforesaid expression indicates that it governs the entire scheme of Section 25 of the Act, 1996.

69. There is nothing in the bare text of Section 25 to suggest that the condition of an ‘absence of a sufficient cause’, stipulated in the substantive portion is confined in its application to only some sub-section(s) of Section 25 and not to the provision as a whole.

70. This requirement of first, ascertaining, whether a sufficient cause exists for any default by a party in



terms of Section 25, is indispensable. It applies equally to all sub-section(s) of Section 25. The arbitral tribunal is required to satisfy itself of the absence of a sufficient cause, before it can proceed to take recourse under any of the sub-section(s) of Section 25, as the case may be.

71. Thus, in the absence of any agreement, the yardstick or test for the exercise of the limited discretion conferred upon the arbitral tribunal under Section 25, would be to see, if any sufficient cause existed for the default.

72. An arbitral tribunal may exercise its power to either terminate the proceedings, or forfeit the right to file a statement of defence or pass an award ex-parte or sans the production of any piece of evidence, under Section 25 sub-section(s) (a), (b) and (c), respectively, upon its satisfaction that no sufficient cause existed for such default.

73. We shall now look into Section 30 of the Act, 1996, which reads as under:—

“30. Settlement.—

(1) It is not incompatible with an arbitration agreement for an arbitral tribunal to encourage settlement of the dispute and, with the agreement of the parties, the arbitral tribunal may use mediation, conciliation or other procedures at any time during the arbitral proceedings to encourage settlement.

(2) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an



arbitral award on agreed terms.

(3) An arbitral award on agreed terms shall be made in accordance with section 31 and shall state that it is an arbitral award.

(4) An arbitral award on agreed terms shall have the same status and effect as any other arbitral award on the substance of the dispute.”

74. Section 30 of the Act, 1996, inter-alia provides the manner in which the parties, after the commencement of the arbitral proceedings, may arrive at a settlement in respect of the dispute between them.

75. The provision embodies the cardinal principle of consent being the cornerstone of arbitration, by recognizing the autonomy of the parties to settle their dispute at any point in time during the arbitration proceedings. It fortifies that the commencement of arbitration does not take away such autonomy, and the pendency of proceedings, will not be fatal to any outside settlement.

76. The other foundational pillar of arbitration, namely, the resolution of disputes, fairly and effectively, has been enshrined in sub-section (1) of Section 30. Under this provision, a positive duty has been cast upon the arbitral tribunal to encourage and facilitate a settlement between the parties.

77. The provision elaborates, that this duty may be discharged by the arbitral tribunal through mediation, conciliation or any other process, that it considers expedient for meeting the ends of justice and facilitating a settlement between the parties.

78. Sub-section (2) of Section 30 is of particular



importance for our discussion. It provides that where the parties arrive at a settlement in respect of the dispute, the arbitral tribunal shall terminate the proceedings. It further states, that if the parties so request, the arbitral tribunal, if it has no objection, shall record the terms of the settlement in the form of an award.

79. What would be the form and manner in which the award recording the settlement arrived at by the parties is to be made, as-well as the effect of such an award, have been delineated in the subsequent sub-sections.

80. Section 30 sub-section(s) (3) and (4), stipulates that the contents of the award must conform to the parameters laid down in Section 31 and that it shall have the same status and effect as any other award, under the Act, 1996, respectively.

81. As per Section 30 of the Act, 1996, more particularly sub-section (2), the arbitral tribunal is required to terminate the proceedings, upon the settlement of the dispute by the parties. This is because, once the dispute between the parties stands settled, nothing remains for the arbitral tribunal to adjudicate upon.

82. Before we proceed to look into Section 32 of the Act, 1996, it would be apposite to first understand when an arbitral tribunal would be empowered to terminate the arbitral proceedings as per Section 38 of the said Act.

83. Section 38 of the Act, 1996 reads as under:—

“38. Deposits.—



(1) The arbitral tribunal may fix the amount of the deposit or supplementary deposit, as the case may be, as an advance for the costs referred to in sub-section (8) of section 31, which it expects will be incurred in respect of the claim submitted to it:

Provided that where, apart from the claim, a counter-claim has been submitted to the arbitral tribunal, it may fix separate amount of deposit for the claim and counter-claim.

(2) The deposit referred to in sub-section (1) shall be payable in equal shares by the parties:

Provided that where one party fails to pay his share of the deposit, the other party may pay that share:

Provided further that where the other party also does not pay the aforesaid share in respect of the claim or the counter-claim, the arbitral tribunal may suspend or terminate the arbitral proceedings in respect of such claim or counter-claim, as the case may be.

(3) Upon termination of the arbitral proceedings, the arbitral tribunal shall render an accounting to the parties of the deposits received and shall return any unexpended balance to the party or parties, as the case may be.”

84. *The provision of Section 38 deals with deposit of “costs”. The term “costs” refers to the expenses incurred in conducting and facilitating the arbitral proceedings. Such costs are determined by the arbitral tribunal in accordance with Section 31A of the Act, 1996. Sub-Section(s) (3) and (4) of Section 31A enumerate the circumstances which may be taken into*



account by the arbitral tribunal for determining such costs.

85. The Explanation appended to Section 31A of the Act, 1996, further states that the term “costs” means the reasonable costs relating to, the fees of the arbitrators, the administrative outlays of the tribunal, the legal fees and charges, and any other expenses incurred in connection with the arbitral proceedings and the Award.

86. Section 38 sub-section (1), empowers the arbitral tribunal to direct the deposit of a certain portion of these “costs” by the parties, in the form of an advance towards the immediate expenses, the tribunal expects to likely incur for the continuation of the arbitral proceedings in respect of the claim(s) before it.

87. Where a counter-claim is also filed, the arbitral tribunal is further empowered, under the Proviso to sub-section (1) of Section 38 to fix separate amounts of deposit for the claim and the counter-claim, as the case may be.

88. Section 38 sub-section (2) embodies the general rule, that any deposit, which may be required by the arbitral tribunal, shall be payable by the parties in equal proportions. In other words, both the claimant and the respondent are ordinarily responsible to pay 50% of the deposit, respectively.

89. The First Proviso to Section 38 sub-section (2), further stipulates that, where either party defaults paying his share of the deposit, then the same may be paid by the other party.

90. The Second Proviso to Section 38 sub-section (2) is of particular importance. It provides that, in the event



the other party also declines to pay the aforesaid share of the deposit, the arbitral tribunal may either suspend or terminate the proceedings in respect of such claim or counter-claim, as the case may be.

91. To put it simply, where both the parties fail to make the deposit as required by the arbitral tribunal in respect of a claim or a counter-claim then in such a situation, the tribunal would be empowered to either suspend or terminate the proceedings qua such claim or counter-claim.

92. Lastly, Section 38 sub-section (3), provides that once the proceedings stand terminated, the arbitral tribunal shall furnish the account of all the deposits received by it, and return any unexpended balance to the parties.

93. Both Section(s) 25 and 30 of the Act, 1996 respectively, insofar as termination of arbitral proceeding is concerned, are an exception to the general rule contained in Section 32 sub-section (1) of the Act, 1996.

94. We may now proceed to look into Section 32 of the Act, 1996. The said provision reads as under:—

“32. Termination of proceedings.—

(1) The arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2).

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where—

(a) the claimant withdraws his claim, unless the



respondent objects to the order and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,

(b) the parties agree on the termination of the proceedings, or

(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) Subject to section 33 and sub-section (4) of section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings.”

95. *A bare perusal of the aforesaid provision, particularly, Section 32 sub-section (1), reveals that, the termination of arbitral proceedings under the Act, 1996, may occur in two distinct ways; first, through the passing of the final award, or secondly by an order of the arbitral tribunal under sub-section (2), thereof.*

96. *Section 32 sub-section (2) of the Act, 1996 warrants a careful examination. The said provision sets out the three situations in which an arbitral tribunal may, without rendering the final award, terminate the arbitral proceedings by passing an order to that effect. The arbitral tribunal may, by an order, terminate the proceedings where:—*

(i) First, as per sub-clause (a), if the claimant withdraws his claim, and the respondent has no objection to the withdrawal. However, if the respondent raises an objection to the withdrawal, on the ground that it may impede the dispute from



being finally resolved, the arbitral tribunal may refuse to terminate the proceedings. What is sought to be conveyed by the phrase “the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute” used in sub-clause (a) is that, the objection to the withdrawal by the respondent, must be founded upon a genuine interest on his part, in having the dispute resolved. Where such objections are motivated by any extraneous considerations, such as an intent to either delay or protract the dispute or to vexatiously harass the claimant through the continuation of the proceedings, the arbitral tribunal may decline to entertain such objections., and proceed to order a termination of the proceedings.

Where any objection has been raised by the respondent, the arbitral tribunal, before passing an order for termination of the proceedings, is required to make a finding, that the objections raised, are not bona-fide insofar as the resolution of the dispute is concerned.

Insofar, as the question when such a respondent could be said to have a legitimate interest in securing the final settlement of dispute is concerned, it is not possible to lay down any straitjacket formula or prescribe any exhaustive list. The answer must invariably turn upon the peculiar facts and attendant circumstances of each case. Each case would have to be assessed, keeping in mind the nature of the claims, the stage of the proceedings, the evidence on record, and the preliminary findings already made by the arbitral tribunal. We shall discuss this in more detail in the latter parts of this judgment.



(ii) Secondly, as per sub-clause (b), where both the parties agree to the termination of the arbitral proceedings, the arbitral tribunal shall pass an order to such effect.

(iii) Thirdly, as per sub-clause (c), where the arbitral tribunal finds that the continuation of the proceedings has “for any other reason” become unnecessary or impossible, the arbitral proceedings shall pass an order terminating the proceedings.

97. *We shall discuss sub-section (2) of Section 32, particularly, the scope and extent of the arbitral tribunal's authority to pass an order for termination of proceedings thereunder, in more detail in the subsequent parts of this judgment.*

98. *Lastly, sub-section (3) of Section 32 stipulates what would be the legal effect of the termination of arbitral proceedings under the Act, 1996. It provides that, subject to the provisions of Section(s) 33 and 34(4), the termination of the arbitral proceedings, shall in consequence also terminate the “mandate of the arbitral tribunal”.*

99. *To put it simply, upon termination of the arbitral proceedings, either by way of a final award or an order to that effect, as the case may be, the arbitral tribunal, save and except the exercise of the limited powers conferred upon it by Section(s) 33 and 34(4) respectively, shall cease to have any further power or function, under the Act, 1996.*

100. *Thus, apart from the power to correct or interpret an award and eliminating the grounds for setting aside the arbitral award, in terms of Section(s) 33 and 34(4) respectively, the arbitral tribunal, upon the termination*



of the proceedings, is divested of all other powers, and no longer has any jurisdiction, in respect of the dispute.”

9. In the opinion of this Court, none of the provisions, namely, Section 25, 30 (a), 32 (a) or Section 38 of the Arbitration Act apply in the present case where the Presiding Arbitrator has resigned on 25.08.2025. Both the Nominee Arbitrators have repeatedly informed the parties that they are prepared to proceed ahead for appointment of Presiding Arbitrator if the parties so desire. It is not necessary for the Nominee Arbitrators to seek the consent of the parties to proceed ahead with the appointment of the Presiding Arbitrator.

10. At this juncture, it is pertinent to reproduce the Arbitration Clause and the same reads as under:

“1.3.2 Arbitration

Except as otherwise provided elsewhere in the contract, if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, in connection with construction, meaning, operation, effect, interpretation of the contract or breach thereof which parties are unable to settle mutually, the same shall be referred to Arbitration as provided hereunder:

1. A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party. The notice invoking arbitration shall specify all the points of disputes with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter. If the claim is in foreign currency, the claimant shall indicate its value in Indian Rupee for the purpose of constitution of the arbitral tribunal.



2. The number of the arbitrators and the appointing authority will be as under:

<i>Claim amount (excluding claim for interest and counter claim, if any)</i>	<i>Number of arbitrator</i>	<i>Appointing authority</i>
<i>Upto Rs. 50 lakhs</i>	<i>Sole Arbitrator: to be appointed from a panel of retired officers from ONGC/other PSUs/Non-PSU organizations</i>	<i>By ONGC</i> <i>Note: ONGC will forward a list containing names of five retired officers from ONGC/other PSUs/Non-PSU organizations for selecting one from the list who will be appointed as sole arbitrator</i>
<i>Above Rs. 50 lakhs to Rs. 5 crores</i>	<i>Sole Arbitrator: to be appointed from a panel of retired jurists</i>	<i>By ONGC</i> <i>Note: ONGC will forward a list containing names of five jurists to the other party for selecting one from the list who will be appointed as</i>



		<i>sole arbitrator</i>
<i>Above Rs. 5 crores</i>	3 Arbitrators	<i>One arbitrator by each party and the 3rd arbitrator, who shall be the presiding arbitrator, by the two arbitrators. ONGC will appoint its arbitrator from the panel of jurists</i>

3. The parties agree that they shall appoint only those persons as arbitrators who accept the conditions of this arbitration clause, including the fees schedule provided herein. No person shall be appointed as arbitrator or presiding arbitrator who does not accept the conditions of this arbitration clause.

4. Parties agree that there will be no objection if the Arbitrator appointed holds equity shares of ONGC and/or is a retired officer of ONGC/any other PSU. However, neither party shall appoint its serving employee as arbitrator.

5. If any of the Arbitrators so appointed dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the concerned party/parties to appoint another person in his place, in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left it if both parties consent for the same; otherwise, he shall proceed de novo.



6. Parties agree that neither party shall be entitled for any pre-reference or pendente-lite interest on its claims. Parties agree that any claim for such interest made by any party shall be void.”

(emphasis supplied)

11. A reading of the Arbitration Clause indicates that once the Nominee Arbitrators have been appointed, then it is the duty of the Nominee Arbitrators to appoint the Presiding Arbitrator. Under the terms of the contract, even the resignation of the Presiding Arbitrator cannot amount to termination of the mandate of the Arbitral Tribunal. The Nominee Arbitrators can appoint the Presiding Arbitrator and continue with the arbitration.

12. The present case is not where the Arbitral Tribunal has terminated the proceedings and as stated earlier, the resignation of the Presiding Arbitrator will not amount to termination of the arbitral proceedings. The Nominee Arbitrators can appoint the Presiding Officer and the consent of the parties for appointing the Presiding Arbitrator is not necessary as neither the Act nor the Arbitration Clause provides for the same.

13. Once the Nominee Arbitrators have been appointed by the parties, the decision to appoint the Presiding Arbitrator is with the Nominee Arbitrators only. In the opinion of this Court, none of the provisions of Arbitration Act are attracted to the facts of this case as in the present case, the Arbitral Tribunal has not terminated its mandate and, therefore, the Nominee Arbitrators have not become *de jure* or *de facto* ineligible to act as Arbitrators and appoint the Presiding Arbitrators. *Vide* an e-mail dated 10.12.2025, the Nominee Arbitrators have appointed Justice Swatanter Kumar, Former Judge of the Supreme Court of India, as the Presiding



Arbitrator, in accordance with the provisions of the Arbitration Act and the Arbitration Clause.

14. Undoubtedly, between February, 2022 and August, 2025, the Arbitral Tribunal has not proceeded further but this Court cannot ignore the fact that both the parties have failed to file written submissions within the stipulated time and now it is not open for the Petitioner to take advantage of its own wrong.

15. Since the Arbitration proceedings commenced prior to 2015, the application to seek extension of the mandate of the Arbitral Tribunal under Section 29A of the Arbitration Act does not arise and, therefore, Section 29A of the Arbitration Act would not be applicable to the facts of this case.

16. The Arbitral Tribunal is requested to conclude the Arbitral proceedings as expeditiously as possible keeping in mind the spirit of the Arbitration Act.

17. With these observations, the Petition is dismissed. Pending applications, if any, also stands dismissed.

SUBRAMONIUM PRASAD, J

JANUARY 13, 2026

Rahul