



\$~4

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

+ ARB.P. 14/2026 & I.A. Nos.28-30/2026

M/S R.K. JAIN AND SONS HOSPITALITY
SERVICES(P) LTD

.....Petitioner

Through: Mr. Abhinav Sharma, Adv.

versus

NEW DELHI MUNICIPAL COUNCILRespondent

Through: Mr. Udit Dedhiya, Standing Counsel
with Ms. Apurva Sachdev, Mr.
Preyansh Gupta, Advs. for NDMC.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

05.01.2026

%

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 [in short 'Act'] whereby the petitioner seeks appointment of an Arbitrator to adjudicate the disputes between the parties arising out of agreement dated 10.06.2011.

2. Mr. Abhinav Sharma, learned counsel appearing on behalf of the petitioner has invited attention of the Court to Clause 25 of the agreement which provides for settlement of disputes by arbitration. Clause 25 reads thus:

"CLAUSE 25

Settlement of disputes & Arbitration

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specification, designs drawings and instructions herein 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-incharge on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request the Superintending Engineer in writing or written instructions or decision. Thereupon, the Superintending Engineer shall give his written instructions or decision within a period of one month from the receipt of the contractor's letter.

If the Superintending Engineer fails to give his instructions or decision in writing within the aforesaid period or if the contractor is dissatisfied with the instructions or decision of the Superintending Engineer, the contractor may, within 15 days of the receipt of Superintending Engineer's decision, appeal to the Chief Engineer who shall afford an opportunity to the contractor to be heard, if the latter so desires, and to offer evidence in support of his appeal. The Chief Engineer shall give his decision within 30 days of receipt of contractor's appeal. If the contractor is dissatisfied with this decision, the contractor shall within a period of 30 days from receipt of the decision, give notice to the Chairperson, NDMC for appointment of arbitrator/ailing which the said decision shall be final, binding and conclusive and not referable to adjudication by the arbitrator.

(ii) Except where the decision has become final, binding and conclusive in terms of sub-para (i) above disputes or difference shall be referred/or adjudication through arbitration by a sole arbitrator appointed by the Chairperson, NDMC or if there be no Chairperson, the administrative head of the NDMC. If the arbitrator so appointed is unable or unwilling to act or resigns his



appointment or vacates his office due to any reason whatsoever, another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute alongwith the notice for appointment of arbitrator and giving reference to the rejection by the Chief Engineer of the appeal.

It is also a term of this contract that no person other than a person appointed by the Chairperson or the administrative head of the NDMC, as aforesaid should act as arbitrator and if any reason that is not possible. The matter shall not be referred to arbitration at all.

It is also a term of this contract that if the contractor does not make any demand for appointment of arbitrator in respect of any claim in writing as aforesaid within 120 days of receiving the intimation from the Engineer-in-charge that the final bill is ready for payment, the claim of the contract or shall be deemed to have been waived and absolutely barred and the NDMC shall be discharged and released of all liabilities under the contract in respect of these claims.

The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996. (26 of 1996) or any statutory or re-enactment thereof and the rules modifications made there under and for the time being in force shall apply to the arbitration proceeding under this clause.

It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claim I disputes by any party exceeds Rs.100,000.00 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 equally by both the parties. It is also a term of the contract that arbitrator shall be deemed to have entered on the reference on the date he issued notice to both the parties calling them to submit their statement of claims and



counter statement of claims. The venue of the arbitration shall be such place as may be fixed by the arbitrator in his sole discretion. The fees, if any, of the arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who may direct to any by whom and in what manner, such costs or any part thereof shall be paid and fix or settle the amount of costs to be so paid.”

3. The disputes having arisen between the parties, the petitioner invoked arbitration *vide* letter dated 02.06.2025, to which no reply was received from the respondent. Accordingly, the petitioner has approached this Court under Section 11 of the Act.
4. Issue notice.
5. Mr. Udit Dedhiya, learned Standing Counsel appearing on behalf of the respondent accepts notice.
6. He submits that there is no dispute that there is an arbitration clause in the agreement dated 10.06.2011, and therefore, consents for the appointment of an Arbitrator.
7. At the stage of proceedings under Section 11 of the Act, the Court is only required to satisfy itself, *prima facie*, as to the existence of arbitration agreement. All other questions are to be left to the determination of the learned Arbitrator.
8. Since there is no dispute that there is an arbitration agreement between the parties, the present petition is allowed.
9. Accordingly, the disputes between the parties are referred to the learned Arbitrator to be appointed by the Delhi International Arbitration Centre, Delhi High Court, New Delhi [in short ‘DIAC’].



10. Let DIAC nominate an Arbitrator from its panel. The arbitration will be governed by the Rules of the DIAC, including as to the remuneration of the learned Arbitrator.
11. The learned Arbitrator is requested to furnish declaration under Section 12 of the Act, prior to entering upon the reference.
12. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.
13. The petition along with pending applications is disposed of in the above terms.

VIKAS MAHAJAN, J

JANUARY 5, 2026

aj