



2026:DHC:5743



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

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Date of Decision: 13.07.2026+ **ARB.P. 1116/2026**

MOHD AMJAD

.....Petitioner

Through: Mr. Nikhil Saini, Adv.

versus

UNION OF INDIA THROUGH EXECUTIVE ENGINEER CPWD

.....Respondent

Through: Ms. Iram Majid, CGSC and Ms.
Shweta Shandilya, GP.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J (Oral)****IA No.17753/2026 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

ARB.P. 1116/2026

3. The present petition has been filed by the petitioner under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter 'A&C Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
4. The disputes emanate from a tender awarded to the petitioner for 'A/R & M/O 176 Nos. Special Type MPS Flats at BKS/BD Marg under Sub-Division-IV of PaWD-III, New Delhi during the year 2024-25 (SH: Repair of projected chajjas at roof level, repair of ceiling of staff quarters and



2026:DHC:5743



sewer line, etc.).’ (hereinafter ‘the project’). A Letter of Award bearing No. 54(Award)/S.N.M-3/AO-4/2024 2025/1957, dated 27.09.2024 was issued in favour of the petitioner. Pursuant thereto, upon deposit of the performance guarantee, Agreement bearing No. 58/EE/PaWD-III/A-III/2024-25 was executed between the parties.

5. The arbitration clause in the aforesaid agreement between the parties, is in the following terms:

Clause 25

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, designs, drawings and instructions hereinbefore mentioned and as to the quality of workmanship or materials used in 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 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.

25.1 Conciliation: If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawing, 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 disputed; such party may promptly refer such disputes and amount claimed for each dispute to the Conciliator (Special Director General or the Additional Director General concerned with the work, as applicable) in the proforma prescribed in Appendix XVII mentioned in Schedule F, under intimation to the other party. The Conciliator may then request each party to submit to him a brief written statement describing the disputes and the points at issue. Each party shall send a copy of such statement to the other party. At any stage of the conciliation proceedings, the Conciliator may request a party to submit to him such additional information as he deems appropriate. When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, he may



2026:DHC:5743



re-formulate the terms of a possible settlement in the light of such observations. If the parties reach agreement on a settlement of the disputes, they may draw up and sign a written settlement agreement on non-judicial stamp paper as per Stamp Act. The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each party. The termination of conciliation proceedings shall be in accordance with Section 76 of The Arbitration and Conciliation Act, 1996. No party shall be represented

before the said Conciliator by an advocate or legal counsel. The conciliation proceedings shall be completed within 45 days from the receipt of reference. This time may be enlarged by 15 days by the Conciliator. The conciliation proceedings shall be deemed to have been terminated at the end of 60 days from the receipt of reference.

- 25.2 Arbitration: If the aforesaid conciliation proceedings fail or the Conciliator fails to give proposal for settlement within the aforesaid period, either party may promptly give notice in the proforma prescribed in Appendix XVIII, under intimation to the other party, to the Chief Engineer or the Superintending Engineer concerned with the work (as applicable), hereinafter referred to as the Arbitrator Appointing Authority as indicated in Schedule F, for appointment of Arbitrator.

However, a party may seek appointment of Arbitrator without taking recourse to the process of conciliation mentioned in sub-clause 25.1 above.

In the event of either party giving a notice to the Arbitrator Appointing Authority for appointment of Arbitrator, the said Authority shall appoint Arbitrator as per the procedure given below and refer such disputes to arbitration.

- (a) Number of Arbitrators: If the contract amount is less than Rs.100 crore, the disputes may be referred for adjudication by a sole Arbitrator. If the contract amount is Rs.100 crore or more, the disputes may be referred to an Arbitral Tribunal of three Arbitrators.
- (b) Qualification of Arbitrators: It is a term of this contract that each member of the Arbitral Tribunal shall be Graduate Engineer with experience in execution of public works engineering contracts, and he should have worked earlier at a level not lower than the Chief Engineer (equivalent to level of Joint Secretary to the Government of India).

The aforesaid educational qualification and work experience shall be mandatory for appointment as Arbitrator.

The age of Arbitrator at the time of appointment shall not exceed 75 years. An Arbitrator may be appointed notwithstanding the total number of active arbitration cases with him.

- (c) Parties to select Arbitrator: Based on the criteria specified above, a list of empanelled Arbitrators has been prepared in CPWD, and the parties shall have option to select an Arbitrator from the list sent to them.

- 25.3 Appointment of Sole Arbitrator: The parties may opt for appointment of the Arbitrator of the Ministry of Housing and Urban Affairs. In such cases, the party seeking arbitration has to submit an express agreement in writing as per Appendix XIX towards waiver of Section 12(5) of the Arbitration and Conciliation Act, 1996 along with the notice for



2026:DHC:5743



appointment of Arbitrator in the proforma prescribed in Appendix XVIII, under intimation to the other party. The Arbitrator Appointing Authority shall, within 30 days of receipt of the said notice, appoint Arbitrator of the Ministry of Housing and Urban Affairs as Arbitrator in the matter, provided the other party also submits waiver of Section 12(5), ibid in Appendix XIX within 7 days of the receipt of the said notice.

Where any one of the parties does not opt for the Arbitrator of the Ministry of Housing and Urban Affairs, or does not submit the waiver agreement, the Arbitrator Appointing Authority shall propose five Arbitrators from the list of CPWD Empanelled Arbitrators to the party seeking arbitration under intimation to the other party within 15 days of receiving the notice. The party seeking arbitration shall give his choice for one of them within 15 days of receiving the list, and the Arbitrator Appointing Authority shall appoint the chosen person as the Sole Arbitrator within 15 days of the receipt of choice.

It is a term of this arbitration agreement that if the parties fail to select, within the period prescribed above, an Arbitrator of their choice from the list of CPWD Empanelled Arbitrators forwarded to them, the Arbitrator Appointing Authority shall himself select and appoint Arbitrator from the said list.

- 25.4 Appointment of Arbitral Tribunal of three Arbitrators: The Arbitrator Appointing Authority shall prepare two separate lists of five Arbitrators each from the list of CPWD Empanelled Arbitrators, and send one to the party seeking arbitration and other to the responding party, within 15 days of the receipt of notice. The parties will then choose any one Arbitrator from the list provided to them within 15 days of receipt of the list. The Arbitrator Appointing Authority shall then appoint those chosen by the respective parties as Arbitrators and also a third Arbitrator from the list of CPWD Empanelled Arbitrators to act as presiding Arbitrator, within 15 days of receipt of choice from both the parties.

It is a term of this arbitration agreement that if the parties fail to select, within the period prescribed above, an Arbitrator of their choice from the list of CPWD Empanelled Arbitrators forwarded to them, the Arbitrator Appointing Authority shall himself select and appoint Arbitrator from the said list.

- 25.5 Applicable Law: The provisions of the Arbitration and Conciliation Act, 1996 (Act 26 of 1996) and any further statutory modification or re-enactment thereof shall be applicable. Further, the fast-track procedure for arbitration contained in Section 29B of the said Act shall apply. ■
- 25.6 Fee payable to Arbitrator(s): The fee payable to the arbitral tribunal shall be as per CPWD OM No.2/2006/SE(TLC)/CSQ/137 dated 19.11.2019 (or latest amendment), and shall be shared equally by both the parties.
- 25.7 Place of Arbitration: The place of arbitration shall preferably be as mentioned in Schedule F. However, the Arbitral Tribunal may decide the place in consultation with both the parties.



2026:DHC:5743



25.8 Terms of reference: The Arbitral Tribunal shall adjudicate on only such disputes as are referred to it by the Arbitrator Appointing Authority and give separate award against each dispute referred to him and shall give reasons for the award in all cases where the total amount of the claim by any party exceeds Rs.1,00,000.

25.9 Interest on Arbitration award: It is also a term of this arbitration agreement that where the Arbitral award against any dispute is for the payment of money, no pre-suit and pendent elite interest shall be payable on any part of the Arbitral award.

6. In terms of the agreement, the project commenced on 30.09.2024 and was stipulated to be completed by 29.01.2025. The work is stated to have been completed on 11.02.2025.

7. The petitioner attributes the delay to late handing over of the work site by the concerned department of the respondent and to the governmental/environmental restrictions prevailing at the material time.

8. The respondent issued a Show Cause Notice dated 17.10.2024 under Clause 3 of the agreement, calling upon the petitioner to explain failure in execution. Subsequently, contractual penalty was imposed and recovered from the petitioner as per the extant terms/rules.

9. Disputes have arisen between the parties on account of non-payment of the final bill dated 25.02.2025 raised by the petitioner.

10. Thereafter, respondent issued Show cause notice dated 25.09.2025 under Clause 13.6 of the CPWD Enlistment Rules, 2024, proposing disciplinary action. The said notice was replied to by the petitioner *vide* letter dated 08.10.2025. Subsequently, by communication dated 25.11.2025, the petitioner was debarred/blacklisted from future tenders. Aggrieved, the petitioner approached this Court by way of W.P.(C) 19694/2025, which is pending adjudication.

11. In terms of Clause 25 of the agreement, the petitioner, *vide* letter dated



2026:DHC:5743



28.01.2026, referred the disputes to the Dispute Redressal Committee (DRC). It is submitted that the respondent failed to constitute the DRC within the stipulated period of 15 days.

12. Thereafter, the petitioner issued a notice invoking arbitration on 05.05.2026. However, the respondent failed to respond to the same.

13. In the above circumstances, the petitioner has approached this Court, through the present petition, seeking appointment of a sole arbitrator to adjudicate the disputes between the parties.

14. Learned counsel on behalf of the respondent does not dispute existence of the arbitration agreement and accedes to an independent sole arbitrator being appointed by this Court to adjudicate the disputes between the parties.

15. In terms of the judgment of the Supreme Court in **Perkins Eastman Architects DPC v. HSCC (India) Ltd**, (2020) 20 SCC 760, **TRF Limited v. Energo Engineering Projects Ltd**, (2017) 8 SCC 377, **Bharat Broadband Network Limited v. United Telecoms Limited.**, 2019 SCC OnLine SC 547, **SBI General Insurance Co. Ltd. v. Krish Spinning**, 2024 INSC 532, and **Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re**, 2023 SCC OnLine SC 1666, there is no impediment in constituting an arbitral tribunal to adjudicate the disputes between the parties.

16. Accordingly, Mr. Divyansh Nigam, Advocate (Mobile No. + 91 8800198434) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

17. The respondent shall be at liberty to raise preliminary objections as



2026:DHC:5743



regards arbitrability/jurisdiction, if any, which shall be decided by the Sole Arbitrator in accordance with law.

18. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to the parties furnishing disclosure as required under Section 12 of the A&C Act.

19. Let arbitration take place under the aegis of and as per the rules of the Delhi International Arbitration Centre (DIAC).

20. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.

21. Needless to say, nothing in this order shall be construed as an expression of opinion of this court on the merits of the case.

22. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

JULY 13, 2026/ss