



CGHC010176672026



2026:CGHC:32080

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBR No. 31 of 2026

Shri Shiv Shankar Tiwari S/o Late Rajendra Nath Tiwari Aged About 42 Years R/o Bauripara, Ambikapur PS and Tahsil - Ambikapur, District - Surguja (C.G.)

... Applicant

versus

1. M/s Tiwari Construction A Partnership Firm, Bauripara, Ambikapur District - Surguja, Chhattisgarh- 497001 Email Tiwaricons.Amb@Gmail.Com
2. Chandra Kishore Tiwari S/o Late Rewaram Sharma Partner Of Aforesaid Firm, R/o Near Municipal Corporation Office Kedarpur Ambikapur, District Surguja Chhattisgarh- 497001 Email Chandra58.1958@Gmail.Com Mobile- 9425256542
3. Atul Tiwari S/o Late Rewaram Sharma Partner Of Aforesaid Firm, R/o Near Municipal Corporation Office Kedarpur Ambikapur District Surguja Chhattisgarh- 497001 Mobile- 9406275666
4. Alok Tiwari S/o Late Rewaram Sharma Partner Of Aforesaid Firm, R/o Dash Udyan Path Chaube Colony, Raipur District Raipur, Chhattisgarh 492001 Email- Atiwari196513@Gmail.Com
5. Aarti Deshmukh W/o Manoj Kumar Deshmukh Partner Of Aforesaid Firm, R/o Irrigation Colony, Near Pratapgarh Naka House Number- H/24, Ambikapur District- Surguja (Chhattisgarh) 497001 Mobile 9669977618

... Respondents

For Applicant : Mr. Rishabh Dev Singh and Mr. Adarsh Kumar Tiwari,
Advocates.

For Respondents : Mr. Shobhit Mishra, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice
Order on Board

27.07.2026

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.
2. The facts, in brief, as projected by the applicant are that the applicant is a partner in the Respondent No.1 Firm, namely 'M/s Tiwari Construction' (hereinafter referred to as 'the firm') was constituted vide Deed of Partnership dated 01.09.2013 and registered with the "Registrar of Firms and Societies, Ambikapur" Sarguja Division under Section 58(1) of Indian Partnership Act, 1932 bearing No. 162/2013-14 on 05.09.2013, having six partners. The respondent No. 1 is a partnership firm registered with the Registrar of Firms and Societies, Ambikapur, Respondents No. 2 to 5 are other partners of the firm. The said firm has been constituted to engage in Civil Contract Work in various Government Departments and to fulfil the need for financial funds, direct supervision, to fulfil the bid capacity, terms and registration with Govt. Departments. The share of applicant/Shiv Shankar Tiwari in the net profit of the partnership business was 15% in 2013. The firm was reconstituted in 2014 and 2017 vide Partnership Deeds dated 01.04.2014 and 11.12.2017 respectively and the share of applicant/Shiv Shankar Tiwari in the net profit of business of the firm was increased from 15% to 35% in 2017.
3. Clause -20 of the Partnership deed dated 11.12.2017 stipulates settlement of disputes through Arbitration and the same is reproduced as under:-

"That if at any time during the continuance of the after its dissolution and or partnership determination there of any

dispute, difference or question shall arise between the parties or between one party & the representative of the other or between their representative touching, pertaining, affecting concerning or relating to the partnership or the accounts or the accounts or transactions there of or dissolution or winding up thereof or the existence, validity, construction, meaning or effect of those presents or the rights and liabilities of the said parties or their representative under these presents or otherwise to the premises, that every such disputes, difference or question shall be referred to the arbitration and in the event of their no appointing a single arbitrator, on arbitrator each to be appointed a single arbitrator, one arbitrator each to be appointed by all the parties to the dispute, in the manner provided Act, or any reenactment or modification thereof for the time being in force and decision and award the Arbitration or umpires as the case may be shall be binding upon the parties hereto."

4. The applicant was appointed and authorized to execute, supervise all such acts, deeds and things on behalf of the firm as may be necessary and expedient and conducive to the efficient execution and for carrying on the business of the firm repetitively vide General Powers of Attorney dated 13.12.2013, 2014 and 11.12.2017. The firm was allotted three works namely, (i) "Construction of Residential Prayas school Ambikapur", (ii) "Construction of 250 Boys-250 Girls Hostel building at Surajpur" and (iii) "Construction of 24+ 144 Qtrs at Baikunthpur", worth Rs. 55 Crore. While executing the contracts of the firm, the applicant incurred liabilities of suppliers of different construction materials supplied to the firm. However, the payment of the same was stalled by Shri Chandra Kishore Tiwari/Resp. No.2 on different pretexts as he was the sole cheque issuing authority of the SBI Bank account of the firm. Thereafter, various disputes partners of the aforesaid firm regarding several issues pursuant to which, the applicant got the bank account of the firm freezed in order to avoid unauthorised, illegal

withdrawal of funds of the firm by respondents. Thereafter, several meetings happened between the partners in presence of some creditors of the firm and it was mutually agreed that Chandra Kishore Tiwari, Atul Tiwari, Alok Tiwari and Aarti Deshmukh will clear the dues of the creditors of the firm and all the partners will run the firm smoothly. However, the respondents namely, Chandra Kishore Tiwari, Atul Tiwari, Alok Tiwari and Aarti Deshmukh, betrayed the applicant and surreptitiously, created a "fabricated minutes of meeting dated 28.11.2023" showing that a meeting has taken place between the respondents Chandra Kishore Tiwari, Atul Tiwari, Alok Tiwari and Aarti Deshmukh and Shiv Shankar Tiwari/applicant in presence of 5 other persons wherein Shiv Shankar Tiwari/applicant has expressed his willingness to retire with immediate effect and has also proposed to reopen the Union bank accounts which were freezed by him. The applicant being unaware of the aforesaid fraud and in pursuance of understanding reached amongst the partners to run the firm smoothly, he wrote a letter dated 29.11.2023 requesting the Branch Manager of Union Bank of India, Branch Samta Colony to de-freeze the firm's accounts bearing nos. 496805010169 and 496804050000017 which were earlier requested to be freezed by him. Since the firm was not being run as per the mutual understanding arrived amongst the partners, therefore, vide letter dated 31.05.2024, the applicant requested the Branch Manager, Union Bank of India, Branch- Samta Colony, Raipur Chhattisgarh to immediately stop any kind of transaction (cash/cheque) from both accounts of the firm bearing account nos. 496804050000017 and 496805010450169 unless the applicant in person provides 'no objection' in writing regarding the same. The respondents executed a new Deed of Partnership dated 08.07.2024' excluding the applicant and presented the same for registration before "Sub-Registrar Office Ambikapur Tehsil Ambikapur District-Sarguja" instead of

"The Registrar of Firms and Societies Sarguja Division". The aforesaid deed dated 08.07.2024 was registered with "Sub-Registrar Office Ambikapur Tehsil Ambikapur District Sarguja" on 09.07.2024. Partner Alok Tiwari/Resp. No.4 wrote a letter dated 16.07.2024 on behalf of the firm, whereby he intimated the Branch Manager of Union Bank of India, Branch-Samta Colony, that the M/s Tiwari Construction (the firm) has been reconstituted as Sh. Shiv Shankar Tiwari has retired from the firm with effect from 28.11.2023 and that he is no longer a partner of the firm and that a house situated at Lanpad Para, DC Road Ambikapur (Chhattisgarh) which was taken as security by way of equitable mortgage as personal capacity, may be released by the bank as per their own discretion. Regarding the aforesaid forgery of minutes of meeting dated 28.11.2023, Shiv Shankar Tiwari approached the Court of law by filing Application under Section 175(3) and got the FIR registered bearing No. 122/2025 dated 25.02.2025 registered at PS Ambikapur (Sarguja) under Sections 318(4), 319(2), 320, 322, 336(3), 338, 340 of BNS, 2023. However, the said FIR was quashed by this Court vide order dated 17.06.2025 in CRMP No. 855 of 2025 and upheld by the Hon'ble Supreme Court vide order dated 15.09.2025 passed in SLP(Crl.) No. 13816 of 2025 while giving liberty to the applicant to agitate the matter before concerned civil proceedings. The applicant has exhausted all possible means of settlement of dispute however the respondents have been unresponsive to any such steps.

5. The applicant invoked Clause 20 of partnership deed and sent a notice dated 24.12.2025 calling upon the respondents to choose one of the arbitrators suggested while setting out following claims as under:

Details of Statement of Claims:

Claim 1: Towards settlement of accounts i.e., distribution of assets: The firm had assets worth Rs. 1.68 crores which includes shuttering material, lab

testing equipments, mixture machine, concrete lift machine, RMC 800 machine etc. The claimant being 35% partner needs to be given 35% of the value of assets or 35% of the assets itself.

Further the claimant claims 35% in the other assets as mentioned in the balance sheets of the firm.

Claim 2: Towards share in profit- The firm as per the last balance sheet was in profit and the claimant is entitled for 35% of the same calculated as per actual amount.

Claim 3: Towards share in profits earned by Respondents after 28.11.2023: The respondents have continued the business using the assets, goodwill etc. and have earned profits to the knowledge of the claimant/applicant therefore, the claimant/applicant is entitled to claim profits @ 35% from calculated as per actual amount. The Respondents are duty bound under the Partnership Act to share the details of business transactions done by them under the name of Partnership.

Claim 4: Towards loss of earning or functional capacity:- Pursuant to the illegal and unethical expulsion from the firm, the claimant/applicant has lost his functional/earning capacity and therefore, he is entitled to be compensated for the same in terms of money. The claimant/applicant claims Rs. 1 Crore under this head.

Claim 5: Towards indemnity for liability and expenses-Since the claimant/applicant has been expelled and the control of the firm lies with the Respondents only therefore, they are liable to indemnify Claim 6: Towards return of capital/premium and interest thereupon- The claimant/applicant had contributed Rs. 59 lakhs towards capital and he is entitled for the same along with the 24% per annum commercial interest rate to be paid by the respondents.

Claim No. 7: Towards 35% share in the amount to be released with respect

to the Bank Guarantee of Rs. 3.15 Crore deposited by the firm.

It is submitted that the firm deposited a bank guarantee of Rs. 3.15 Crore to the department for the three works namely (i) "Construction of Residential Prayas school at Ambikapur", (ii) "Construction of 250 Boys-250 Girls Hostel building at Surajpur" and (iii) "Construction of 24+ 144 Qtrs at Baikunthpur". As per the knowledge of the claimant/applicant, the amount to be released by the bank is 75 lakhs and 15 lakhs along with the applicable interest therefore, the claimant/applicant is entitled for 35% of the released amount in the above head calculated as per actual amount released.

Claim No. 8: Towards 35% share of the GST refund for the three work orders mentioned above:

It is submitted that due to change in GST rates, the firm would be entitled for GST refunds to the tune of Rs. 50 lakhs approx for Ambikapur, 45 lakhs approx for Surajpur and 60 lakhs approx for Baikunthpur, making a total of Rs. 1.55 Crore approx. The claimant/applicant is entitled for 35% of the same calculated as per actual amount released.

Claim 9: Towards 35% share of Security deposit (SD), Performance Guarantee (PG), Royalty and other deductions, and Total Escalation (TE) allowed, if any:

It is submitted that in the three work orders mentioned above the department would release 5% SD and 5% PG and other deductions and the claimant/applicant would be entitled for 35% share in those payments calculated as per actual amount released.

Claim 10: Towards 35% of pending payment of recurring/final bills for the aforesaid three works: The payment of three works as mentioned in claim no.7 are still pending. The pendency relates to final bill as well as some recurring bills for the aforesaid three works therefore, the claimant/applicant is entitled for 35% share in payment of aforesaid bills to be calculated as per

the actual amount released by the Departments.

Claim 11: Towards repayment of loan provided to the firm by Smt. Geeta Tiwari (mother of claimant) along interest @ 18%: The mother of the claimant/applicant has given the loan of Rs. 6,62,736/- to the firm in 2017 which has not been paid yet therefore, the claimant/applicant is entitled to repayment of the loan along with interest @ 18% from 2017. The claimant/applicant is authorized by his mother to claim back the said amount and the with necessary authorization will be produced at appropriate time.

Claim 12: Towards compensation for goodwill and Valuation of the firm- The firm started its business in 2013 from small contracts and was executing contracts worth Rs. 55 crores in 2022 due to untiring efforts made by the claimant/applicant. The successful execution of these contracts has made the firm eligible for participation in tenders of higher value therefore, the firm made a goodwill of its own which can be assessed in monetary terms as Rs 42,73,043/- and the claimant/applicant is entitled to 35% of the same.

Claim 13: Interest- The claimant/applicant is entitled for interest @18% per annum on the total claim amount from the date of expulsion till the date of final payment.

Cost of Arbitration - The claimant/applicant would be entitled for the cost of arbitration including the fees of his advocate and the Arbitrator to be paid by him. Aforesaid notice dated 24.12.2025 seeking arbitration was served on the respondents. Except respondent No. 4, all others refused to accept notice. Respondent No.4 sent his letter dated 15.01.2026 asking the applicant to resend the said notice in Hindi language. Thereafter, a translated version of notice dated 24.12.2025 was sent to respondent No.4 on 03.02.2026. However, respondent No. 4 vide his letter dated 16.03.2026 claimed that the translated version of notice was not verified which clearly shows the dilatory tactics on the part of the said respondent. It is further

pertinent to mention that the other respondents have not replied to the Arbitration notice.

6. The present application under Section 11(6) of the Conciliation Act, 1996, seeking appointment of an arbitrator is maintainable before this Court for several reasons. First, the parties have, a valid arbitration clause 20 in the Partnership deed dated 11.12.2017, which clearly states that the disputes arising between the partners will be resolved through arbitration. Despite the applicant invoking this clause and nominating arbitrators, the respondents have not agreed to appoint one, requiring this Court's intervention under Section 11(6) of the A & C Act, 1996. This Court has territorial jurisdiction to entertain the petition because respondent firm and other respondents are located under the territorial jurisdiction of this High Court. The disputes, above, fall within the arbitration clause, making them suitable for arbitration. The present application has been filed as per the provisions of law and within the period of limitation. The disputes between the parties arise out of and are in connection with the Partnership Deed dated 11.12.2017. No other similar application/petition has been filed by the application either before this Court or before any other Court.
7. Learned counsel for the respondents relying on the return filed on behalf of the respondents, opposes the present arbitration request application, however he submits that the respondents shall have no objection if this Court appoints any Arbitrator for resolving the dispute between the parties.
8. I have heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.
9. A query was put to learned counsel appearing for the parties as to whether they are agreeable for a common name who can be appointed as Arbitrator, learned counsel for the parties submitted that they would have no objection if any retired Judge of this High Court is appointed as the Sole Arbitrator. They

further submit that Hon'ble Mr. Justice Deepak Kumar Tiwari, who is a retired Judge of this High Court may be appointed as the Sole Arbitrator.

10. In view of the above consensus between the learned counsel for the parties, **Hon'ble Mr. Justice Deepak Kumar Tiwari**, a retired Judge of this High Court is appointed to act as the Sole Arbitrator to resolve the dispute involved in this arbitration request between the parties.
11. The Registry is directed to communicate this order to Hon'ble Mr. Justice Deepak Kumar Tiwari in the proper address.
12. The remuneration of the Arbitrator shall be settled with the mutual consent of the parties.
13. The arbitration request petition, accordingly, stands **allowed**.

Sd/-
(Ramesh Sinha)
Chief Justice

Preeti