2026:DHC:9241

$~J

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

% ***Judgment pronounced on: 16.10.2026***

\# **CNR No.DLHC010329812026**

\+ **O.M.P.(MISC.)(COMM.) 555/2026**

IFFCO KISAN SUVIDHA PRIVATE LIMITED .....Petitioner

Through: Mr. A.R. Takkar, Sr. Adv. along with Mr. Manan Takkar and Ms. Avantika Thakur, Advs.

versus

DEPT OF AGRICULTURE AND FARMERS WELFARE .....Respondent

Through: Ms. Saumya Tandon, CGSC, Mr. Govil Upadhyay, GP along with Mr. Gaurav Singh Sengar, Adv. and Mrs. Swati Singh, AAO.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition, as amended, has been filed under Section 11(6) read with Sections 15, 29A(5) and 29A(6) of the Arbitration and Conciliation Act, 1996 (hereafter “the A&C Act”), seeking extension of the time period for making of the arbitral award in the arbitral proceedings bearing Case Ref. No. IIAC-ARB 113/2024 (hereafter “the arbitral proceedings”), conducted under the aegis of the India International Arbitration Centre (hereafter “IIAC”); substitution of the learned Sole Arbitrator, Late Hon’ble Mr. Justice (Retd.) Vijender Jain, who passed away on 27.02.2026 during the pendency of the arbitral proceedings; and a direction that the substitute Sole Arbitrator shall proceed from the stage at

IBC Laws | www.ibclaw.in

which the arbitral proceedings stood on the date of termination of the mandate of the previous Arbitrator.

2. The petition was originally filed under Sections 29A(5) and 29A(6) of the A&C Act. Vide order dated 05.08.2026, the petition was permitted to be read as having been filed under Section 11(6) of the A&C Act read with Sections 15 and 29A thereof, and an amended petition has been filed accordingly. A short reply has been filed on behalf of the respondent on 01.09.2026.

3. The disputes between the parties arise out of the KCC Agreement dated 31.10.2018 (hereafter "the Agreement"), executed pursuant to the Request for Proposal bearing Ref. No. RFP/KCC/DAC&FW/FEBRUARY, 2018 (hereafter "the RFP") floated by the respondent for providing Kisan Call Centre services. The Agreement was initially valid up to 31.08.2021 and was extended from time to time till 31.08.2023. Alleging that the respondent failed to clear the amounts due under its invoices and to release the Performance Bank Guarantee, the petitioner invoked arbitration vide letter dated 02.04.2024, raising a claim of Rs.7,14,09,167/- (inclusive of the Performance Bank Guarantee of Rs.77,24,920/-). The respondent disputes the claims and has raised a counter-claim.

4. The arbitration agreement between the parties is contained in Clause 3.21 of the RFP, which reads as under:-

> *"3.21. Arbitration Policy:*
> *In case of any dispute between the Client and the Agency arising out of or in relation to the Agreement, the dispute shall be referred to arbitration of a sole arbitrator to be appointed by the Secretary, Department of Agriculture, Cooperation & Farmers Welfare, Ministry of Agriculture & Farmers Welfare, Government of India. The Arbitration and Conciliation Act, 1996 shall be applicable to arbitration under this clause. The award of the arbitrator shall be*

> *binding on the parties to the dispute provided; however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary or any other officer when so authorized by the Law Secretary, whose decision shall bind the parties finally and conclusively. The place of arbitration shall be New Delhi."*

5. It is stated that, with the mutual consent of the parties, the disputes were referred to arbitration under the aegis of the IIAC and Hon'ble Mr. Justice (Retd.) Vijender Jain was appointed as the Sole Arbitrator; Procedural Order No.1 dated 11.10.2024 records that learned counsel for both parties had no objection to the learned Sole Arbitrator continuing with the reference. The pleadings were completed and points for determination were framed on 22.03.2025. The evidence of the petitioner's witness (CW-1) concluded on 06.05.2025. The cross-examination of the respondent's witness (RW-1) commenced on 13.10.2025, but was deferred at the instance of the respondent, which sought to amend its Statement of Defence; the said application was allowed on 06.12.2025. The last order passed by the learned Sole Arbitrator, being Procedural Order No.10 dated 02.02.2026, reads as under:-

> *"1. RW-1 Mr. Sajith Kumar Kunhalath was cross-examined during the whole session. His cross-examination remains inconclusive.*
> *2. Ld. Counsel for the Claimant prays that one more session be granted and she will finish the cross-examination of RW-1.*
> *3. On a query from the Tribunal about the mandate of the Tribunal, Ld. Counsels for both the parties states that the mandate of the tribunal will expire on 22.03.2026.*
> *4. Both the parties pray that the Tribunal may fix a date so that Evidence is concluded and the matter thereafter be taken up for final arguments.*
> *5. Agreeing to the request of the parties, I fix 31st March, 2026 at 2.30 pm by physical hearing to record the remaining cross-examination of RW-1."*

6. Before the next date of hearing, the learned Sole Arbitrator

unfortunately passed away on 27.02.2026. The time period for making the award expired thereafter on 22.03.2026. On 11.05.2026, the petitioner proposed the names of three former Judges for appointment as the substitute Sole Arbitrator. *Vide* communication dated 12.05.2026, the IIAC called upon the respondent to concur in one of the said names or to nominate alternate name(s). Vide letter dated 25.05.2026, the respondent informed the IIAC that the matter had been referred to the Department of Legal Affairs; and vide letter dated 08.06.2026, the respondent stated, inter alia, as under:-

> *"3. The legal advice received by this Department is that, after expiry of the mandate under Section 29A(4) of the Arbitration and Conciliation Act, 1996, appointment of a substitute Arbitrator through the institutional mechanism alone would not be legally sustainable unless the mandate is first extended by the competent Court under Section 29A(5) of the Act. It has further been advised that the appropriate course would be to seek extension of mandate and appointment of a substitute Arbitrator through the competent Court in accordance with Sections 29A(5) and 29A(6) of the Act."*

7. The said letter was forwarded by the IIAC to the petitioner on 18.06.2026, whereafter the present petition came to be filed on 23.07.2026.

8. Learned senior counsel for the petitioner submits that the arbitral proceedings are at an advanced stage; that what remains is the completion of the cross-examination of RW-1, which would require only about half an hour, followed by final arguments; that no evidence would be required to be adduced afresh and the proceedings would continue from the stage already reached; and that the claim is of the order of Rs.7 crores, besides interest. As regards the objection of delay, learned senior counsel relies upon the judgment of the Supreme Court in ***Bharat Sanchar Nigam Ltd. v. Nortel Networks India (P) Ltd.***, (2021) 5 SCC 738, to contend that no period of

limitation is prescribed under the A&C Act for a petition under Section 11, and that such a petition is governed by Article 137 of the Schedule to the Limitation Act, 1963. It is further submitted that the delay, if any, is only of about two months, and not five months as alleged.

9. In its reply, the respondent contends that the petitioner has failed to show sufficient cause for extension of time or for regularisation of the intervening period; that the period between 27.02.2026 and 11.05.2026 remains unexplained, and the petition was filed only in July, 2026; that the extension of twelve months sought is disproportionate, given the advanced stage of the proceedings; that Clause 3.21 of the RFP contemplates appointment of the arbitrator by the Secretary of the respondent Department; and that its position is to be seen in the light of the Office Memorandum dated 03.06.2024 issued by the Department of Expenditure, Ministry of Finance, containing guidelines for arbitration in contracts of domestic public procurement. The respondent, however, does not dispute the unfortunate and unforeseen nature of the demise of the learned Sole Arbitrator.

10. At the hearing, learned counsel for the respondent, submits that the unexplained delay of about five months in filing the present petition be taken note of. However, it is acceded that the vacancy on account of demise of the previous arbitrator is to be filled up, and a suitable extension of time is to be granted for completion of arbitral proceedings. Learned counsel for both parties have also agreed that the arbitral proceedings shall henceforth be conducted under the aegis of the Delhi International Arbitration Centre (hereafter "*DIAC*").

11. The existence of the arbitration agreement is not in dispute. The mandate of the learned Sole Arbitrator came to an end upon his demise,

necessitating the appointment of a substitute arbitrator; and, the time for making the award having expired on 22.03.2026, the arbitral proceedings can continue only if this Court extends the time in terms of Section 29A(4) of the A&C Act.

12. In ***Rohan Builders (India) (P) Ltd. v. Berger Paints India Ltd.***, 2024 SCC OnLine SC 2494, it has been held by the Supreme Court as under:-

> *"19. … under Section 29A(5), the power of the court to extend the time is to be exercised only in cases where there is sufficient cause for such extension. Such extension is not granted mechanically on filing of the application. The judicial discretion of the court in terms of the enactment acts as a deterrent against any party abusing the process of law or espousing a frivolous or vexatious application. Further, the court can impose terms and conditions while granting an extension. …*
>
> *20. … Section 29A(7) states that if a new arbitrator(s) is appointed, the reconstituted arbitral tribunal shall be deemed to be in continuation of the previously appointed arbitral tribunal. This obliterates the need to file a fresh application under Section 11 of the A & C Act for the appointment of an arbitrator. In the event of substitution of arbitrator(s), the arbitral proceedings will commence from the stage already reached. Evidence or material already on record is deemed to be received by the newly constituted tribunal. The aforesaid deeming provisions underscore the legislative intent to effectuate efficiency and expediency in the arbitral process.*
>
> *xxx*
>
> *23. In view of the above discussion, we hold that an application for extension of the time period for passing an arbitral award under Section 29A(4) read with Section 29A(5) is maintainable even after the expiry of the twelve-month or the extended six-month period, as the case may be. The court while adjudicating such extension applications will be guided by the principle of sufficient cause and our observations in paragraph 19 of the judgment."*

13. Further, in ***Mohan Lal Fatehpuria v. Bharat Textiles & Ors.***, 2025

INSC 1409, the Supreme Court has observed as under:-

> *"13. … When mandate of arbitrator has expired, his continuation is impermissible. Section 29A(6) empowers and obligates the Court to substitute the Arbitrator. … The substitution of a sole arbitrator is warranted, when his mandate ceases to exist, to effectuate the object of the Act, which mandates expeditious resolution of the dispute. …"*

14. In the present case, substitution is necessitated on account of the demise of the learned Sole Arbitrator. Section 15(2) of the A&C Act provides for appointment of a substitute arbitrator according to the rules applicable to the appointment of the arbitrator being replaced. The said provision, read with Sections 29A(5) and 29A(6), enables this Court to appoint a substitute Sole Arbitrator while extending the period for making the award, upon sufficient cause being shown.

15. As regards the delay, this Court in ***ATC Telecom Infrastructure (P) Ltd. v. Bharat Sanchar Nigam Ltd.***, 2023 SCC OnLine Del 7135, decided on 06.11.2023, has held as under:-

> *"16. … The purport of Section 29A of the A&C Act was clearly not to tie the hands of the parties or the court, and prevent extension of time even where warranted, simply because the petition under Section 29A(4) of the A&C Act came to be filed a few days after expiration of the deadline contemplated under Section 29A(1) or Section 29A(3) of the A&C Act. …"*

16. The same position has been reiterated in ***Rohan Builders (India) (P) Ltd.*** (supra).

17. It is also noticed that the arbitral proceedings came to a halt not on account of any laxity on the part of the petitioner, but on account of the demise of the learned Sole Arbitrator, less than four weeks before the expiry of the time for making the award. The intervening period was consumed, in

part, in the exchange/s that took place between the parties. The delay is neither inordinate nor indicative of any want of bona fides, and no prejudice has been shown to have been caused to the respondent. On the other hand, declining the reliefs sought would render nugatory the proceedings conducted over more than fifteen months.

18. In view of the respondent's stand at the hearing, no separate adjudication of its earlier objections founded on Clause 3.21 of the RFP or the Office Memorandum dated 03.06.2024 is called for. The parties have mutually agreed to the appointment of a substitute Sole Arbitrator by this Court and to continuation of the proceedings under the aegis of DIAC. As regards the period of extension, having regard to the advanced stage of the proceedings, a period of six months would suffice to complete the remaining evidence, hear arguments and make the award.

19. The stipulation in an arbitration agreement as to the institution under whose aegis the arbitration is to be conducted, and as to the manner in which the arbitral tribunal is to be constituted, is a matter of contract between the parties, which is open to variation by mutual consent. Where such consent is arrived at in the course of hearing and is recorded in the order of the Court, the arbitral arrangement stands modified *pro tanto*. In ***Shaf Broadcast (P) Ltd. v. Doordarshan***, (2019) 10 SCC 447, the Supreme Court, at the request of counsel for all the parties, appointed a Sole Arbitrator in modification of an arbitration clause which stipulated a three-member tribunal. The relevant extract/s read as under:-

> *"4. Even though the arbitration agreement provides for a three-member arbitral tribunal, the Counsel for all the parties at the time of hearing, requested for the appointment of a Sole*

> *Arbitrator in modification of the arbitration clause stipulating a three-member tribunal, to adjudicate the disputes.*
>
> *5. Accordingly, with the consent of the Counsel for the parties, we appoint Mr. Justice (Retd.) A. M. Sapre, Former Judge, Supreme Court of India as the Sole Arbitrator subject to the declarations being made under Section 12 of the Arbitration and Conciliation Act, 1996 with respect to independence and impartiality, and the ability to devote sufficient time to complete the arbitration within the period of 12 months.The learned Arbitrator is requested to complete the proceedings within the time-limit specified under Section 29A."*

20. The present case likewise entails a consensual variation of the arbitral arrangement, to the extent of the appointment of a substitute Sole Arbitrator by this Court and the administration of the remaining proceedings by DIAC in place of IIAC. The change in the administering institution leaves undisturbed the agreed number of arbitrators, the place of arbitration at New Delhi and the law governing the proceedings. Substitution is occasioned by the demise of the previous Sole Arbitrator, and the reconstituted tribunal shall continue the existing reference in terms of Sections 29A(6) and 29A(7) of the A&C Act. Accordingly, effect is given to the parties' agreement to the aforesaid extent.

21. In view of the above, the present petition is allowed, and the following directions are issued with the consent of the parties:-

(i) Mr. Justice (Retd.) Manmohan Singh, former Judge, Delhi High Court, (Mob. 9717495001), is appointed as the substitute Sole Arbitrator in place of Late Hon'ble Mr. Justice (Retd.) Vijender Jain, to adjudicate the disputes between the parties;

(ii) The arbitration shall take place under the aegis of the DIAC and shall abide by its rules and regulations. The learned Sole

Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC;

(iii) In terms of Section 29A(6) of the A&C Act, the arbitral proceedings shall continue from the stage already reached, i.e., the remaining cross-examination of RW-1, on the basis of the evidence and material already on record, which the learned substitute Sole Arbitrator shall be deemed to have received;

(iv) The time for completion of the arbitral proceedings and making of the arbitral award is extended by a period of six months from the date on which the learned substitute Sole Arbitrator enters upon reference;

(v) The learned Sole Arbitrator may proceed with the arbitral proceedings subject to furnishing to the parties the requisite disclosures as required under Section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this Court;

(vi) Learned counsel for the parties are at liberty to collect the arbitral record, along with the order-sheets/record of proceedings, from the IIAC and to file the same before the learned substitute Sole Arbitrator; and

(vii) 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 their merits, in accordance with law.

22. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the contentions of the

parties.

23. The present petition stands disposed of in the above terms. Pending application(s), if any, also stand disposed of.

SACHIN DATTA, J

OCTOBER 16, 2026/*sd*