2026:DHC:9239

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

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

\# **CNR No.DLHC010374732026**

\+ **ARB.P. 1399/2026**

PRAMOD KUMAR GOEL .....Petitioner

Through: Mr. Rudraksh Gupta, Adv. (through v/c)

versus

UNION OF INDIA .....Respondent

Through: Mr. Adhitya Srinivasan, SPC, Mr. Srajan Tyagi, Mr. Rishabh Kanojiya and Mr. Rishiraj Singh, Advs., UOI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("*A&C Act*") seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties arising out of Agreement No. 37/EE(E)/DED-41/2025-26.

2. The respondent invited percentage rate e-tenders *vide* NIT No. 09/NIT/DC-IV/2025-26 for the work "Renovation & Furnishing of 4th Floor and Modification of Ground Floor, Corporate Office of Punjab & Sind Bank, East Kidwai Nagar, New Delhi". The bid of the petitioner, a sole proprietorship concern carrying on business as a civil and electro-mechanical works contractor, was accepted vide Letter of Acceptance dated 01.01.2026 for a sum of Rs. 8,66,99,100/-. The petitioner furnished

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performance guarantee of Rs. 43,35,000/- on 08.01.2026, whereafter Letter of Commencement dated 14.01.2026 was issued, stipulating the date of start as 11.01.2026 and the date of completion as 10.06.2026.

3. The disputes arise out of the Manufacturer's Authorisation Forms/consent documents furnished by the petitioner in respect of certain specialised sub-heads. The petitioner submitted documents issued through authorised channel partners of Cisco Systems and Gallagher Security on 16.01.2026; the respondent, vide letter dated 28.01.2026, called upon it to furnish documents issued directly by the Original Equipment Manufacturers. A show cause notice dated 03.02.2026 was issued under Clause 3 of the agreement, to which the petitioner replied on 06.02.2026. Vide letter dated 16.02.2026, the respondent forfeited the performance guarantee and did not permit the petitioner to participate in the tendering process for the said work.

4. The petitioner referred the disputes for conciliation vide reference dated 23.02.2026 addressed to the Additional Director General (D), CPWD, and, no proposal for settlement being forthcoming, invoked arbitration vide notice dated 29.05.2026 under Section 21 of the A&C Act read with Clause 25 of the agreement. The said notice is addressed to the Superintending Engineer, DC-4, CPWD, East Block, R.K. Puram, New Delhi, described therein as the "Arbitrator Appointing Authority under Schedule 'F'", with copies to the Additional Director General (D), CPWD and to the Executive Engineer (E), DED-41, CPWD. It bears the receipt stamps of the offices of the Superintending Engineer, DC-4, of the Additional Director General, CPWD, and of the Executive Engineer (E), DED-41. No arbitral tribunal has been constituted pursuant thereto.

5. There is a controversy between the parties as to which version of

Clause 25 of the General Conditions of Contract constitutes the arbitration agreement between them. The petitioner relies upon Clause 25 as annexed to the petition, which reads as under:

> *"Clause 25 — Settlement of Disputes & Arbitration*
>
> *Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in 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-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 is disputed, such party shall promptly within 15 days of the arising of the disputes request the Chief Engineer/CPM, or where there is no Chief Engineer/CPM, the Additional Director General/Special Director General (CE/ADG/SDG) who shall refer the disputes to Dispute Redressal Committee (DRC) within 15 days along with a list of disputes with amounts claimed if any in respect of each such dispute. The Dispute Redressal Committee (DRC) give its decision within a period of 60 days extendable by 30 days by consent of both the parties from the receipt of reference from CE/CPM/ADG/SDG. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule 'F'. Provided that no party shall be represented before the Dispute Redressal Committee by an advocate/legal counsel etc.*
>
> *The DRC will submit its decision to the concerned ADG/SDG for acceptance. ADG/SDG in a time limit of 30 days from receipt of DRC decision will convey acceptance or otherwise on the said decision if the Dispute Redressal Committee (DRC) fails to give its decision within the aforesaid period or the ADG/SDG fails to give his acceptance in the aforesaid time limit or any party is dissatisfied with the decision of Dispute Redressal Committee (DRC) ADG/SDG then either party may within a period of 30 days from the receipt of the*

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decision of Dispute Redressal Committee (DRC), ADG/SDG or on expiry of aforesaid the time limits available to DRC/ADG/SDG may give notice to the Chief Engineer/CPM, CPWD, in charge of the work or if there be no Chief Engineer/CPM, the Additional Director General/Special Director General of the concerned region of CPWD or if there be no Additional Director General/Special Director General, the Director General, CPWD for appointment of arbitrator on prescribed proforma as per Appendix XV under intimation to the other party.

It is a term of contract that each party invoking arbitration must exhaust the aforesaid mechanism of settlement of claims/disputes prior to invoking arbitration.

The CE/CPM/ADG/SDG/DG shall in such case appoint the sole arbitrator or one of the three arbitrators as the case may be within 30 days of receipt of such a request and refer such disputes to arbitration. Wherever the Arbitral Tribunal consists of three Arbitrators, the contractor shall appoint one arbitrator within 30 days of making request for arbitration or of receipt of request by Engineer-in-charge to CE/ADG/SDG/DG for appointment of arbitrator, as the case may be, and two appointed arbitrators shall appoint the third arbitrator who shall act as the Presiding Arbitrator. In the event of —

a. A party fails to appoint the second Arbitrator, or

b. The two appointed Arbitrators fail to appoint the Presiding Arbitrator, then the Director General, CPWD shall appoint the second or Presiding Arbitrator as the case may be.

(ii) Disputes or difference shall be referred for adjudication through arbitration by a Tribunal having sole arbitrator where claimed amount is Rs. 20 Crore or less. Where claimed Value is more than Rs. 20 Crore, Tribunal shall consist of three Arbitrators as above. The requirements of the Arbitration and Conciliation Act, 1996 (26 of 1996) and any further statutory modification or re-enactment thereof and the rules made there under and for the time being in force shall be applicable.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed, if any, in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the decision of the ADG/SDG on the finding/recommendation of DRC.

It is also a term of this contract that any member of the Arbitration Tribunal shall be a Graduate Engineer with experience in handling public works engineering contracts, and further he shall have earlier worked at a level not lower than Chief Engineer/equivalent (i.e. Joint

Secretary level of Government of India). This shall be treated as a mandatory qualification to be appointed as arbitrator.

Parties, before or at the time of appointment of Arbitral Tribunal may agree in writing for fast track arbitration as per the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015.

Subject to provision in the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015 whereby the counter claims if any can be directly filed before the arbitrator without any requirement of reference by the appointing authority. 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 claims by any party exceeds Rs. 1,00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that fees payable to arbitral tribunal shall be as approved by DG, CPWD, OM issued vide no.2/2006/SE(TLC)/CSQ/137 dated 19-11-2019 (or its latest amendment as approved by DG, CPWD). This fee shall be shared equally by parties.

The place of arbitration shall be as mentioned in Schedule F. In case there is no mention of place of arbitration, the arbitral tribunal shall determine the place of arbitration.

The venue of the arbitration shall be such place as may be fixed by the Arbitral Tribunal in consultation with both the parties. Failing any such agreement, then the Arbitral Tribunal shall decide the venue."

6. The respondent contends that the aforesaid clause stood superseded, and relies upon Clause 25 of the CPWD General Conditions of Contract, 2023 ("the GCC, 2023"), which reads as under:

"Clause 25: Settlement of Disputes by Conciliation and Arbitration

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 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 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

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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.

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 reason 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."*

7. Schedule 'F' of the agreement put forth by the petitioners designates the Additional Director General (D), CPWD as the Conciliator; the Superintending Engineer, DC-4, CPWD as the Arbitrator Appointing Authority; and New Delhi as the Place/Seat of Arbitration. This Court is, accordingly, possessed of the requisite jurisdiction to entertain the present petition.

8. Notice in the present petition was issued on 14.08.2026 and was accepted on behalf of the respondent. A reply has been filed on behalf of the respondent, taking three objections: first, that the petitioner has relied upon an incorrect and superseded version of the arbitration agreement; secondly, that the petitioner failed to issue notice in the proforma prescribed in Appendix XVIII, which alone sets the appointment machinery in motion, rendering the invocation of Section 11(6) premature; and thirdly, that the disputes sought to be referred are in the nature of deadwood.

9. The scope of enquiry at the referral stage stands settled by the Seven-Judge Bench of the Supreme Court in ***In Re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act 1996 and the Indian Stamp Act 1899***, (2024) 6 SCC 1, and by ***SBI General Insurance Co. Ltd. v. Krish Spinning***, 2024 SCC Online SC 1754, in terms whereof the referral court must, under Section 11(6A), confine itself to the examination of the existence of an arbitration agreement. All other issues fall to be decided by the arbitral tribunal under Section 16 of the A&C Act.

10. The first objection is self-defeating. Both parties assert that the agreement contains an arbitration clause. They differ only as to which version of it governs. That difference does not touch the existence of an arbitration agreement, which is all that falls for examination at this stage. Under either version, moreover, the power of appointment is vested in an officer of the respondent.

11. As regards the second objection, the record does not bear out the assertion that no notice in the prescribed proforma was issued. Appendix XVIII is titled "Notice for appointment of Arbitrator", is addressed to the Chief Engineer/Superintending Engineer, and calls for particulars of the applicant, the work and contract number, the contract amount, the dates of commencement and completion, and the number and amount of claims, followed by a certification and a list of enclosures. The notice dated 29.05.2026 is titled "Notice for Appointment of Arbitrator", is addressed to the Superintending Engineer, DC-4, CPWD described as the "Arbitrator Appointing Authority under Schedule 'F'", recites that it is issued "in terms of Section 21 of the Arbitration and Conciliation Act, 1996 read with Clause 25 of the Agreement, particulars of which are given below", sets out those particulars, carries the certification that the information given is true, encloses the list of claims with amounts, and was marked to the Executive Engineer (E), DED-41, CPWD by way of intimation to the other party. The notice thus substantially conforms to Appendix XVIII. That it reached the Arbitrator Appointing Authority is not open to doubt, the notice bearing the receipt stamp of that office dated 29.05.2026.

12. Even otherwise, the objection would not avail the respondent. The

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purpose of the stipulation as to proforma is to ensure that the appointing authority is apprised of the particulars necessary to make an appointment; that purpose having been served, a departure in form could not defeat a substantive right to arbitrate. In any event, an objection founded upon non-compliance with a pre-arbitral procedural requirement is not one for the referral court to adjudicate upon. Nor can the respondent aver that the appointment machinery was never set in motion, when, for the reasons laid down below, that machinery could not lawfully have yielded a valid appointment in any case.

13. The third objection is urged without indicating the basis upon which the disputes are said to be deadwood. In any event, that is not a characterisation for this Court to examine in terms of ***SBI General Insurance Co. Ltd. v. Krish Spinning*** (supra), the same is a matter for the learned Sole Arbitrator under Section 16 of the A&C Act.

14. The existence of the arbitration agreement is thus not in doubt. What falls for consideration is the appointment machinery, and putting it to test it on the respondent's own version of Clause 25. Sub-clause 25.2 requires notice for appointment of an arbitrator to be given "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" being, in terms of Schedule 'F', the Superintending Engineer, DC-4, CPWD, an officer of the respondent. Sub-clause 25.3 thereafter provides two routes. The first is the appointment of an Arbitrator of the Ministry of Housing and Urban Affairs, which is available only where the party seeking arbitration furnishes an express agreement in writing as per

Appendix XIX waiving Section 12(5) of the A&C Act, and the other party submits a like waiver within seven days. The second operates "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", and requires the Arbitrator Appointing Authority to propose five names from the list of CPWD Empanelled Arbitrators, failing selection from which "the Arbitrator Appointing Authority shall himself select and appoint Arbitrator from the said list". No waiver under Appendix XIX has been furnished by either party; the petitioner, on the contrary, objected in its notice dated 29.05.2026 to any unilateral appointment by an interested authority or from a departmental panel. The consequence, on the respondent's own clause, is that the Sole Arbitrator falls to be appointed by an officer of the respondent, and from a panel prepared by the respondent. As regards the former, the Supreme Court in ***Perkins Eastman Architects DPC v. HSCC (India) Ltd.***, (2020) 20 SCC 760, has observed:-

> *"**21.** But, in our view that has to be the logical deduction from TRF Ltd. Para 50 of the decision shows that this Court was concerned with the issue, "whether the Managing Director, after becoming ineligible by operation of law, is he still eligible to nominate an arbitrator". The ineligibility referred to therein, was as a result of operation of law, in that a person having an interest in the dispute or in the outcome or decision thereof, must not only be ineligible to act as an arbitrator but must also not be eligible to appoint anyone else as an arbitrator and that such person cannot and should not have any role in charting out any course to the dispute resolution by having the power to appoint an arbitrator. The next sentences in the paragraph, further show that cases where both the parties could nominate respective arbitrators of their choice were found to be completely a different situation. The reason is clear that whatever advantage a party may derive by nominating an arbitrator of its choice would get counter-balanced by equal power with the other party. But, in a case where only one party has a right to appoint a sole arbitrator, its choice will always have an element of exclusivity in determining or charting the course for*

> *dispute resolution. Naturally, the person who has an interest in the outcome or decision of the dispute must not have the power to appoint a sole arbitrator. That has to be taken as the essence of the amendments brought in by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) and recognised by the decision of this Court in TRF Ltd."*

15. As regards the latter, an appointment mechanism of this description is impermissible in terms of the judgment of the Supreme Court in ***Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV)***, (2025) 4 SCC 641. It has been observed therein as under:

> *"132. In Voestalpine and CORE, one of the parties curated a panel of arbitrators and mandated the other party to select their arbitrator from the panel. Since the curation of the list is exclusively undertaken by one party, the other party is effectively excluded from the process of curating the panel from which exclusively, the appointment of an arbitrator is to be made. The other party has to mandatorily select its arbitrator from a curated panel, restricting their freedom to appoint an arbitrator of their choice. This is against the principle of equal treatment contained under Section 18. In this situation, there is no effective counterbalance because both parties do not participate equally in the process of appointing arbitrators. The party curating the panel can restrict the choice of the party only to a person who is on the panel selected by the other party and to no other person.*
>
> *133. Many PSUs are regularly involved in arbitration disputes and constantly need the services of arbitrators. Such institutions often maintain a pool of potential arbitrators with the sole object of having a ready pool of qualified professionals who have committed their time and consented to act as arbitrators for fixed fees. The Arbitration Act does not prohibit parties to an arbitration agreement from maintaining a curated panel of potential arbitrators. However, the problem arises when the PSUs make it mandatory for other parties to select their nominees from the curated panel of arbitrators. When a PSU exercises its discretion to curate a panel, the very factor that the PSU is choosing only a certain number of persons as potential arbitrators and not others will raise a reasonable doubt in the mind of a fair-minded person. The PSUs may conceivably have nominated a person on the panel of potential arbitrators because they have a certain predisposition in favour of the former. This doubt is reinforced when the other party is given no choice but to select its arbitrator from the curated panel."*

16. Recently, a Coordinate Bench of this Court in ***Kalpataru Projects International Ltd. v. Northern Railway***, 2026 SCC OnLine Del 110, while relying upon the aforesaid judgment of the Supreme Court, has, in a similar factual conspectus, appointed a sole arbitrator, while, inter alia, observing as under:

> *"12. The position of law is, thus, clear that even in cases, where there is a three member panel, an Arbitration Clause mandating the other party to select its Arbitrator from a curated panel of potential Arbitrators, is against the Principle of Equal Treatment of Parties. Accordingly, it is evident that the Arbitration Clause detailing the procedure for appointment of the Arbitral Tribunal, i.e., Clause 24.1 in the present case cannot be sustained, and would be invalid."*

17. Applying the aforesaid principles to the present case, the Arbitrator Appointing Authority under sub-clause 25.2 read with Schedule 'F' is an officer of the respondent, and falls within Entry 1 of the Seventh Schedule read with Section 12(5) of the A&C Act. He is therefore ineligible to act as an arbitrator and, in terms of ***Perkins Eastman Architects DPC*** (supra), equally ineligible to appoint one. That the power of appointment was understood by the respondent to be its own is evident from its reply, which avers that "no arbitrator was appointed by the Respondent".

18. In the other option, the choice of the petitioner stands confined to a list of "CPWD Empanelled Arbitrators" prepared by the respondent, with the Arbitrator Appointing Authority empowered to select and appoint from that list himself should the petitioner not exercise its option. That is not permissible as per ***Central Organisation for Railway Electrification*** (supra) and ***Kalpataru Projects International Ltd.*** (supra) . The appointment mechanism contained in Clause 25 cannot, therefore, be sustained, and it is incumbent on this Court to appoint an independent Sole Arbitrator.

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19. Accordingly, Ms. Ritika Jhurani, Advocate (Mob. No. +91 9910699943) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

20. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties 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.

21. Let the arbitration take place under the aegis of and as per the rules of the Delhi International Arbitration Centre (DIAC). The learned Sole Arbitrator shall be entitled to fee in accordance with the applicable rules/schedule of the DIAC; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

22. The respondent shall be entitled to raise preliminary objections as regards jurisdiction/arbitrability, which shall be decided by the learned Sole Arbitrator, in accordance with law.

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

24. 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.

25. The present petition, along with the pending applications, stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 16, 2026/*nb*

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