

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

ARBITRATION PETITION NO. 11 OF 2025

DELLNER POLYMER SOLUTIONS
LIMITED

PETITIONER (S)

VERSUS

NORTHERN RAILWAY

RESPONDENT (S)

O R D E R

1. The instant petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (1996 Act), seeks the appointment of an Arbitrator on behalf of the Respondent and a consequential direction to the two Arbitrators to appoint a Presiding Arbitrator in a time-bound manner, resulting in a 3-member Arbitral Tribunal tasked to adjudicate the disputes between the parties.

2. For context, the Petitioner is a corporation organized under the laws of the United Kingdom and is engaged in the business of rubber to metal bonding, overhaul, and refurbishment for the rail industry. On the other hand, the Respondent is an Indian Government entity and is part of the Indian Railways. The Respondent invited e-tenders for the procurement of certain items and upon the Petitioner's bid for the same being accepted, a Purchase Order dated 11.06.2018 was accordingly issued. The total order value of the Purchase order was Great British Pounds (GBP) 3,25,220.48, which is approximately equivalent to Rs. 4,02,96,085.83. It is not disputed that the said Purchase Order and the disputes arising therefrom are governed by the Indian Railways Standard Conditions of Contract (IRSCC).

3. It is claimed that a dispute arose owing to the Respondent's non-payment of the balance amount of GBP 1,48,173.77 [approximately equivalent to Rs. 1,83,58,307.98] due to the Petitioner. It appears that the Petitioner attempted to amicably resolve the disputes through the relevant Articles of the IRSCC, but to no avail.

4. Thereafter, the Petitioner issued a notice invoking arbitration dated 10.12.2024, under Article 2903 of the IRSCC, and appointed Sh. Achal Khare (Ex-IRSE), former Managing Director of National High Speed Rail Corp. as its Arbitrator, and called upon the Respondent to appoint one on their behalf within 30 days.

5. In response, instead of nominating an Arbitrator, the Respondent requested the Petitioner to waive the applicability of Section 12(5) of the 1996 Act so that an Arbitral Tribunal of 3 retired Railway Officers, not below the rank of Senior Administrative Grade Officer, could be constituted. Since the Petitioner declined to waive the applicability of Section 12(5) and the Respondent failed to appoint an Arbitrator on its behalf, the instant Arbitration Petition was moved. At this juncture, it is worth mentioning that in the notice dated 10.12.2024, the Petitioner claimed that, as per the law laid down by this Court, an arbitration clause cannot mandate the other party to select its arbitrator from a panel specifically curated by the PSU involved.

6. We have heard learned senior counsel/counsel for the parties and perused the material on record.

7. Keeping in view the facts and circumstances recorded above, we deem it just and proper to allow the instant Arbitration Petition and appoint Justice R.K. Jain, former Judge, Punjab & Haryana High Court and former Member, NCLAT, as the Arbitrator on behalf of the Respondent. Further, we direct the two Arbitrators, one being already appointed by the Petitioner, to appoint a Presiding Arbitrator within ten days.

8. Further, since the IRSCC stipulates that the place of arbitration would be "*within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties,*" we deem it appropriate that the arbitration shall be seated and held in New Delhi, India.

9. We make it clear that the parties will be at liberty to raise all available contentions before the learned Arbitral Tribunal.

10. The Arbitral Tribunal shall have the liberty to fix its own remuneration/fees. Ordered accordingly.

11. Pending interlocutory applications, if any, also stand disposed of.

.....CJI
(SURYA KANT)

.....J.
(JOYMALYA BAGCHI)

NEW DELHI;
MAY 11, 2026.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SPetition(s) for Arbitration No(s). 11/2025

DELLNER POLYMER SOLUTIONS LIMITED

Petitioner(s)

VERSUS

NORTHERN RAILWAY

Respondent(s)

Date : 11-05-2026 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHIFor Petitioner(s) : Mr. Vikas Goel, Adv.
Mr. Rahul Shyam Bhandari, AOR
Mr. Ritesh Sharma, Adv.
Ms. Anshita Dahiya, Adv.For Respondent(s) : Mr. Vikramjit Banerjee, A.S.G.
Mr. Nachiketa Joshi, Sr. Adv.
Mr. Amit Sharma-ii, Adv.
Mr. P.V. Yogeswaran, Adv.
Mr. Sarad Kumar Singhania, Adv.
Mr. Amrish Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

The Arbitration Petition is allowed in terms of the signed order.

Pending interlocutory applications, if any, also stand disposed of.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS(PREETHI DILEEP KUMAR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)