Sr. No. 2

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court
Case: Arb P No. 59/2026

M/s Des Raj Nagpal Contractors Pvt. Ltd. …Petitioner(s)/Appellant(s)
th. Ashwani Nagpal

Through: Mr. Dheeraj Sharma, Advocate.

V/s

Union of India and ors. …. Respondent(s)

Through: Mr. Sumant Sudan, Assisting counsel to
Mr. Vishal Sharma, Sr. Advocate (DSGI)

CORAM: HON'BLE THE CHIEF JUSTICE

ORDER
06.11.2026

(ORAL)

01. The present petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996, (for short '**the Act**') requesting the appointment of an independent arbitrator to adjudicate and resolve the subsisting disputes between the parties.

02. The laconic facts outlining the background of the case are:

The petitioner – M/s Des Raj Nagpal Contractors, carrying on the business of MES Contractors and Government Order Suppliers, was awarded with a contract bearing CA No. CEUZ/135WE/06/2011-12 for the Provision of Sewage Disposal, External Water Supply and Under Ground Tank for MAP at Nagrota for an amount of ₹2,99,66,189.07.The said Contract was accepted by the Chief Engineer, Udhampur Zone, in favour of the petitioner and Work Order No.1(F) dated 22.06.2011 was issued in favour of the petitioner with the specifications as under:

Period of completion	15 Months
a) Date of handing over the site	22 Jun 2011
b) Date of commencement of work	22 Jun 2011
c) Date of completion	21 Sept 2012

It is averred that the petitioner completed the physical works for phase two of the project on 09.12.2025. Subsequently, severe disputes arose between the contracting parties; while the petitioner anticipated the disbursement of

₹56.00 lakhs, the respondents instead unilaterally issued a final notice on February 28, 2026, threatening contract termination, which prompted an immediate letter of protest from the petitioner on March 05, 2026. Consequent upon the respondents' failure to act, the petitioner approached the Commercial Court, seeking recourse under Section 9 of the Arbitration and Conciliation Act, 1996. The Commercial Court granted the interim relief to the petitioner resultantly, the respondents decided to determine the contract in part and issued the completion certificate in favour of the petitioner on 13.04.2026. It is further averred that despite the issuance of completion certificate for phase 2 and the foreclosure of phase 3 the respondents illegally withheld the legitimate dues of the petitioner including the 15th RAR, retention money and compensation for abnormal prolongation. On account of the said disputes arisen between the parties and on inaction on the part of respondents, the petitioner invoked Condition 70 of GCC (IAFW-2249-1989) already contained in the Agreement, vide letter dated 12.04.2026 seeking appointment of an arbitrator to adjudicate upon the disputes between the parties, though the respondents omitted to act.

The Arbitration clause reads as under:

"Arbitration:

All disputes, between the parties to the Contract other than those for which the decision of the Accepting Officer or any other person is by the Contract expressed to be final and binding shall, after written notice by either party to the Contract to the other of them, be referred to the sole arbitration of a serving officer having degree in Engineering or equivalent or having passed final examination of Institution of Surveyors India in any of the branches to be appointed by the Engineer-in-Chief Army HQ or in his absence, officer officiating as Engineer-in-Chief, Army HQ, New Delhi."

It is further averred that notwithstanding the consistent efforts to amicably settle the dispute arisen between the parties, the outstanding final dues remained unpaid. Hence, on account of nonfeasance from the respondents, the present petition.

03. Heard learned counsel for the parties.

04. Thus, having argued the matter at some length and in the given circumstances, learned counsel for the respondents, as always, fairly submits that though the existence of the arbitration clause, as aforesaid, and its

invocation by the petitioner is not disputed, let an arbitrator be appointed. But, since the claim that is sought to be made by the petitioner is vehemently disputed/ denied, it is submitted that respondents be granted liberty to raise all possible pleas/ objections before the Arbitrator in this regard.

05. Accordingly, in the wake of the position sketched out above and in terms of the statements made by the learned counsel for the parties, the petition is allowed. And, with consent of learned counsel for the parties, **Sh. Parkash Makhijani, JT. DG (C) MES,** is appointed as the sole arbitrator, who shall proceed with the matter in accordance with the provisions of the Act and to make an award within the time provided in the Act itself after charging the prescribed fee along with incidental expenses to be shared by the parties. **The respondents are at liberty to raise all the objections as regards the subject matter before the learned Arbitrator.**

06. Registry to send a copy of this order to the learned arbitrator.

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

Jammu:
06.11.2026
SUNITA