



2026 :DHC :3391



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

Date of decision: 23.04.2026

+ O.M.P.(I) (COMM.) 172/2026 & I.A. 11119/2026 (Ex. From filing original documents)

NEETU AGRAWALPetitioner

Through: Mr. Dinesh Monga, Ms. Monika Shahi and Ms. Palak Agrawal, Advocates.

versus

GAIL (INDIA) LTDRespondent

Through: Mr. Apoorva Kurup, Senior Advocate with Mr. Nishant Awana, Ms. Nitya Sharma, Mr. Gurjas Narula and Ms. Rakshita Mangain, Advocates.

**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

% **JUDGEMENT (ORAL)**

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been filed under Section 9 of the **Arbitration and Conciliation Act, 1996** [“the A&C Act”], seeking the following reliefs:

“A. Pass an ad interim/interim order restraining the Respondent, its officers, servants, agents and all those acting on its behalf, from giving effect to or acting upon the Notice of Termination dated 27.03.2026 in respect of LOA No. 5300041002 and LOA No. 5300041004 dated 18.04.2024, pending the hearing and final disposal of the present petition;

B. Pass an ad interim/interim order restraining the Respondent from invoking, encashing, or in any manner acting upon the Bank Guarantees (CPS) bearing No. 53870GI3D1232725 for Rs.



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11,26,398/-, 53870GI3D1268225 for Rs. 17,49,480/-, 50670IGL0001324 for Rs. 5,83,160/- and 50670IGL0001224 for Rs. 3,75,466/-, aggregating Rs. 38,34,504/-, furnished by the Petitioner under Clause 38 of the Tender Document, pending the hearing and final disposal of the present petition;

C. Pass an order restraining the Respondent from issuing any Advisory Notice (YELLOW/RED Card), placing the Petitioner on any Watch List or Holiday List under Appendix-2 to the GCC-Services, or taking any consequential action under Clause 2.17.3 of the GCC-Services in consequence of the impugned Notice of Termination dated 27.03.2026, pending the hearing and final disposal of the present petition;

D. Direct the Respondent to issue a Work Completion Certificate to the Petitioner in respect of both LOA No. 5300041002 and LOA No. 5300041004;

E. Direct the Respondent to withdraw the disqualification/rejection of Bid so as to enable the Petitioner to participate in the renewed bid floated by the Respondent vide Bid Document dated 05.02.2026 as well as any future tenders;

F. Direct the Respondent to release all withheld amounts towards RA Invoices and Bonus reimbursements as detailed in Document-26, along with applicable interest from the date of default;

G. Award costs of the present petition in favour of the Petitioner and against the Respondent;”

2. Learned counsel appearing on behalf of the parties are *ad idem* that instead of the adjudication of the present Petition; the disputes that have arisen as between the parties may be referred to arbitration.

3. Needless to say, the Respondent will be bound by the terms of the contract and in particular, Clause 5.3B(a), which reads as follows:

“B) Where Poor/Non-Performance leading to termination of contract or Offloading of contract due to poor performance attributable to Vendor/Supplier/ Contractor/Consultant (under Clause no.2.17.3 of GCC-Services)

(a) First instance: Advisory notice (Yellow Card) shall be issued and Vendor/Supplier/Contractor /Consultant shall be put on watch list for a period of Two (2) Year.



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Further such vendor will not be allowed to participate in the re-tender of the same supply/work/services of that location which has terminated / offloaded. Moreover, it will be ensured that all other action as per provision of contract including forfeiture of Contract Performance Security (CPS) etc. are undertaken. However, such vendor will be allowed to participate in all other tenders and to execute other ongoing order/ contract (s) or new contract/ order (s).

The Yellow card will be automatically revoked after a period of two years unless the same is converted into Red Card due to subsequent instances of poor/ non performance in other ongoing order (s)/ contract (s) or new order (s) /contact (s) on such Vendor/ Supplier/ Contractor/ Consultant..”

4. Since the parties have mutually consented to the adjudication of their disputes by way of Arbitration, this Court is of the view that the commencement of arbitral proceedings to adjudicate the disputes between the parties should not be unduly delayed. Accordingly, in the peculiar facts of the present case, the requirement of Section 21 notice and initiation of separate proceedings under Section 11 of the A&C Act are dispensed with, with the consent of the parties.

5. In view thereof, this Court is of the view that the matter may be referred to arbitration by a Sole Arbitrator for the purpose of the adjudication of the disputes between the parties.

6. Material on record reflects that the valuation of the subject matter of the disputes is stated to be approximately Rs. 2.5 Crores/-

7. Accordingly, this Court hereby requests **Ms. Asha Menon (Retd.) (Former Judge of Delhi High Court)** to enter upon the reference and adjudicate the disputes *inter se* the parties.

8. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the A&C Act within a week of entering the reference.



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9. The Registry is directed to forward a copy of this order to the learned Arbitrator through all permissible modes, including electronic means.

10. The learned Arbitrator shall be entitled to a fee in accordance with the Fourth Schedule of the A&C Act or as may otherwise be agreed to between the parties and the learned Arbitrator.

11. The parties shall share the learned Arbitrator's fee and arbitral costs equally.

12. All rights and contentions of the parties are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

13. Accordingly, the present Petition under Section 9 of the A&C Act shall be treated as an Application under Section 17 of the A&C Act, and appropriate directions may be passed by the learned Arbitrator after entering upon the reference.

14. The learned Arbitral Tribunal is requested to accord their consideration to the Section 17 Application as expeditiously as possible.

15. Needless to state, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy.

16. Accordingly, the present Petition, along with pending Application(s), if any, stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
APRIL 23, 2026/v/va