



2026:DHC:3253



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

% **Judgment reserved on: 13.04.2026**
Judgment pronounced on: 20.04.2026

+ O.M.P. (COMM) 173/2023, I.A. 8628/2023, I.A. 10083/2023 &
I.A. 21689/2025

**NATIONAL HIGHWAYS AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED**Petitioner

Through: Mr. Prasenjit Keswani, Senior
Adv. with Mr. Upmanyu
Tewari & Mr. Surya Kapoor,
Adv.

versus

**INTERCONTINENTAL CONSULTANTS AND
TECHNOCRATS PRIVATE LIMITED IN JOINT
VENTURE WITH ANANDJIWALA INFRA
ADVISORY PVT. LTD.**Respondent

Through: Mr. Atul Chitale, Senior Adv.
with Mr. Pradip Kumar, Ms.
Kominica Bose, Ms. Aparna
Banerjee & Mr. Mrigank, Adv.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

J U D G M E N T

1. This petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') against the arbitral award dated 02.01.2023 (for brevity 'award').
2. The necessary facts are that the respondent was a successful bidder in a Request for Proposal (RPF) invited for consultation



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services. The parties to the *lis* entered into the contract agreement dated 22.02.2021 (hereinafter referred to as 'CA') whereunder the respondent was to provide Consultancy Services as Authority's Engineer for Supervision Construction of (i) Connecting Road from Z-Morh Tunnel to Zojila Tunnel and (ii) 14.150 KM long bidirectional tunnel across Zojila Pass to on the Sonmarg-Kargil Section of NH-01 on EPC mode in the Union Territories of Jammu & Kashmir and Ladakh.

2.1 The letter dated 05.01.2021 was issued and the respondent was directed to mobilize the staff. The petitioner vide letter dated 09.04.2021 suspended the services of the respondent as Authority's Engineer. The revocation of the suspension was sought by the respondent vide communications dated 19.04.2021, 07.06.2021 and 17.06.2021. However, on 07.07.2021, the petitioner under clause 2.9.1(g) of the General Conditions of Contract (for brevity 'GCC') issued a show cause notice (for short 'SCN') for termination. The written explanation was sought from the respondent regarding alleged engagement in corrupt and fraudulent practices for competing in RPF. The responses dated 12.07.2021 and 26.07.2021 to the SCN were filed.

2.2 The respondent challenged the suspension order, the SCN and re-tendering of work by filing W.P.(C) 10268/2021 titled M/s Intercontinental Consultants and Technocrats Pvt. Ltd. In JV with Anandjiwala Infra Advisory Pvt. Ltd. v. National Highways and Infrastructure Development Corporation Limited & Another. On



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15.09.2021 the petitioner made a statement that the suspension is going to be revoked, the fresh tender is to be withdrawn and claimant/respondent shall be permitted to perform the contract. In view of statement the writ petition was disposed of accordingly.

2.3 The suspension was revoked vide letter dated 22.09.2021. The respondent by the letter dated 22.09.2021 sought release of withheld bills for the period from January 2021 to March 2021 and claimed payments for the suspension period from April 2021 to August 2021. Receiving no response, the respondent made attempts to amicably settle and upon failure thereof, invoked arbitration proceedings under clause 8.4.2 of the GCC.

2.4 The arbitrator held the suspension to be illegal, awarded an amount of Rs.5,44,04,340/- for the suspension period and litigation costs to the tune of Rs.6,18,500/- on account of litigation expense against illegal suspension. Interest of Rs.3,18,079/- on delayed payments from January 2021 to March 2021, *pendente lite* interest of Rs.35,70,487/- and further interest of Rs.41,99,845/- from 29.03.2022 till date of award were granted. In case of non-payment of the amount by 31.01.2023 interest was to be paid at the rate of 12% per annum.

3. Learned counsel for the petitioner contends that the respondent relying upon a wrong certificate of experience fraudulently claimed eligibility. The vigilance inquiry was marked however, due to the death of the alleged defaulting official of the petitioner the matter could not proceed. The submission is that the suspension of the respondent was bona-fide and this issue despite having been



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specifically pressed before the arbitrator was not dealt with and the impugned award is non-speaking.

3.1 Submission is that the respondent had not submitted monthly invoices which were to be scrutinized, there was no evidence adduced by the respondent of the actual payment made to the employees and yet the arbitrator awarded payments. The reliance is on communication dated 19.04.2021 to contend that in response to the letter of suspension the respondent demobilized the staff.

4. *Per contra*, the petitioner having failed to defend the illegal suspension, made a statement before the High Court revoking the suspension order. The submission is that the fresh tender was withdrawn and the respondent till date continues to perform the work. It is emphasised that the scope of interference under Section 34 of the Act is limited, the plausible view of the arbitrator cannot be interfered with.

4.1 The letters dated 27.09.2021, 20.10.2021 and 24.01.2022 are relied upon to fortify that the staff was available at the site and this information was repeatedly communicated to the petitioner. It is canvassed that the invoices raised for the period of suspension were supported by evidence.

5. During the pendency of this petition the arbitral record was requisitioned but the arbitrator informed that the record had gone missing. Learned counsel for the parties consented that the relevant documents have been placed before this court and matter be heard on merits on that basis.



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(c) if the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof;

(d) if the Consultants submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultants know to be false;

(e) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

(g) if the consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. *For* the purpose of this clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish price at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

(h) if EPC Contractor represents to Employer that the Consultant is not discharging his duties in a fair, efficient and diligent manner and if the dispute remains unresolved, Employer may terminate this contract.

6.2 Remuneration and Reimbursable Expenditures

(a) Subject to the ceilings specified in Clause GC6.1(b) hereof, the Client shall pay to the Consultants (i) remuneration as set forth in Clause GC6.2(b), and (ii)



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“34. The mandate under Section 31(3) of the Arbitration Act is to have reasoning which is intelligible and adequate and, which can in appropriate cases be even implied by the courts from a fair reading of the award and documents referred to thereunder, if the need be. The aforesaid provision does not require an elaborate judgment to be passed by the arbitrators having regard to the speedy resolution of dispute.”

10.2 In **Som Datt Builders Ltd. v. State of Kerela (2009) 10 SCC 259**, it was held as follows:

“25. The requirement of reasons in support of the award under Section 31(3) is not an empty formality. It guarantees fair and legitimate consideration of the controversy by the Arbitral Tribunal. It is true that the Arbitral Tribunal is not expected to write a judgment like a court nor is it expected to give elaborate and detailed reasons in support of its finding(s) but mere noticing the submissions of the parties or reference to documents is no substitute for reasons which the Arbitral Tribunal is obliged to give.....”

(emphasis supplied)

11. The issuance of SCN under clause 2.9 of the GCC lost relevance after withdrawal of re-tender of work and the decision taken that respondent shall continue with work, this issue also calls for no adjudication.

12. On 09.04.2021 the services of the respondent were suspended due to pendency of examination of complaint received with regard to experience claimed for submitting the bid. The respondent on 19.04.2021 requested for revocation of the suspension. It was specifically stated that due to suspension the respondent had no choice



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but to keep on hold the expatriate and other staff. The contention of the learned counsel for the petitioner that on suspension the respondent demobilized the staff is factually ill-founded in view of the letter dated 19.04.2021. By letter dated 07.06.2021, the respondent stated that due to illegal suspension from 09.04.2021 the experts continued to be deployed at the site and must be paid by the petitioner. The same information was reiterated vide communication dated 17.06.2021.

13. After revocation of suspension by letter dated 22.09.2021, the respondent by letter dated 22.09.2021 submitted invoices from April 2021 to September 2021 and also sought release of the payments from January 2021 to March 2021. The petitioner by an office memo dated 14.10.2021 requested the respondent to submit the details of actual deployment of key personnel and supporting staff at site during the suspension period. The relevant portion is quoted below:

“2. In view of the above, it is requested to submit the details of actual deployment of the Key Personnel and Supporting staff at site during suspension period i.e, from 09.04.2021 like attendance SHEET (BIOMETRIC OR REGISTER), Rent Agreement of office and residential accommodation, Vehicle Agreement/Lease etc, if any latest by 6.10.2021 for further necessary action.”

14. The office memo was responded to on 20.10.2021, annexing the following proofs: (i) the attendance register maintained at the office site; (ii) the copy of the register of Hotel Iqbal signed by the hotel owner and the caretaker where the residential accommodation and office of the authority's engineer was arranged; (iii) the copy of the



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agreement between the respondent and the hotel; (iv) log books and rent agreement of the rented vehicles; (v) papers of company vehicle; and (vi) log book of the vehicle of the company. Having received no response the arbitration proceedings were invoked.

15. Neither before the arbitrator nor before this court the documents furnished by respondent have been disputed. The objection is to the absence of proof of actual payments of salary. The law is well settled that the determination of quantum of evidence falls within with exclusive domain of the arbitrator and plausible view of arbitrator cannot be interfered under Section 34 of the Act. Reference in this regard be made to the following decision:

15.1 The Supreme Court in State of **Rajasthan v. Ferro Concrete Construction (P) Ltd. (2009) 12 SCC 1** held:

“55.While the quantum of evidence required to accept a claim may be a matter within the exclusive jurisdiction of the arbitrator to decide, if there was no evidence at all and if the arbitrator makes an award of the amount claimed in the claim statement, merely on the basis of the claim statement without anything more, it has to be held that the award on that account would be invalid. Suffice it to say that the entire award under this head is wholly illegal and beyond the jurisdiction of the arbitrator, and wholly unsustainable.”

16. The arbitrator considering the invoices and the collateral evidence concluded that the staff mentioned in the invoice continued to be deployed at the site and there was no proof that the staff was demobilized. The view of the arbitrator is plausible and in absence to a challenge to the evidence adduced, no case is made out for



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17. The litigation cost awarded by the arbitrator after considering the evidence on record suffers from no legal or factual error much less perversity.
18. The interest granted is as per clause 6.4 of the GCC as agreed between the parties and is consistent with the contractual terms.
19. Section 31A(3) of the Act bestows discretion upon the arbitrator to determine costs considering the facts and circumstances of the case. A reasonable figure quantified by the arbitrator taking into consideration the various factors calls for no interference.
20. The view taken by the arbitrator is plausible and is not vitiated by patent legality, perversity or conflict with the public policy of India. No case is made out for interference under Section 34 of the Act.
21. The petition is dismissed. Pending applications stand disposed of.

AVNEESH JHINGAN, J

APRIL 20, 2026/ha

Reportable:- Yes