

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT: HYDERABAD**

**HON'BLE SRI JUSTICE K. LAKSHMAN**

**ARBITRATION APPLICATION No. 161 OF 2025**

**Date: 02 -04-2026**

**Between in ARB APPL .No.161 of 2025:**

M/S Galore Infotech Pvt.Ltd ...Applicant

And

M/s SEW Krishnagar Bahrapore  
Highways Ltd .....Respondent

This Court passed the following:-

**ORDER**

Heard Mr. M. Govind Reddy, learned counsel representing Mr. E. Varun Kumar, learned counsel for the Applicant on the maintainability of the present application filed under section 14 read with sections 15 and 11 of the Arbitration and Conciliation Act, 1996 ( for short, 'the Act, 1996').

2. The present Arbitration Application arises out of disputes between the Applicant, M/s. Galore Infratech Private Limited, and the Respondent, M/s. SEW Krishnagar Bahrapore Highways Limited, in relation to a work order-cum-agreement dated

26.09.2012 executed for the supply of aggregates in connection with a national highway project.

3. The genesis of the dispute traces back to June 2012, when a group company of the Applicant, namely M/s. Balajee Infratech & Constructions Pvt. Ltd., received an enquiry from SEW Infrastructure Limited for participation in the project concerning the four-laning of the Krishnagar–Baharampore section of NH-34 in the State of West Bengal under the NHDP Phase-III on DBFOT (Annuity) basis. Pursuant to negotiations, a Letter of Intent (LOI) dated 13.07.2012 was issued, initially in favour of the said group company. Subsequently, upon mutual understanding, the work was transferred to the Applicant company, and a fresh offer was submitted on 07.09.2012, followed by issuance of a Work Order dated 26.09.2012 in favour of the Applicant.

4. Under the terms of the Work Order, the Applicant was obligated to install two crushing plants of 200 TPH capacity and to supply approximately 11,00,000 metric tons of crushed stone within a stipulated period of one year. In compliance, the Applicant mobilized substantial resources, installed the required machinery,

obtained necessary governmental permissions, and commenced production from September/October 2012.

5. It is the case of the Applicant that despite fulfilling its contractual obligations, the Respondent failed to lift the aggregates produced, resulting in accumulation of stock at the site, disruption of production, and incurring of additional costs such as re-handling charges. The Applicant further alleges that the Respondent defaulted in making timely payments of monthly bills, leading to substantial outstanding dues. The situation allegedly compelled the Applicant to demobilize its machinery and discontinue operations, thereby suffering significant financial losses.

6. Subsequently, disputes arose between the parties regarding non-payment of dues and damages for breach of contract. The Applicant quantified its claim at approximately Rs.12.21 crores towards losses suffered. Legal notices were issued demanding payment; however, the Respondent failed to comply.

7. Invoking the arbitration clause contained in the Work Order-cum-Agreement, the Applicant initially nominated a sole arbitrator. The Respondent, however, disputed the same and

unilaterally appointed another arbitrator Sri V.V. Raghavan, a retired District & Sessions Judge was appointed, according to the terms of the contractual clause vesting such power in its Managing Director. The Applicant raised objections regarding the independence and impartiality of the appointed arbitrator under Section 12 of the Act, 1996. The said arbitrator eventually recused himself, and thereafter, Respondent has appointed Sri Dasari Sambaiah, as a substitute Arbitrator.

8. The disputes between the parties were earlier subject matter of Arbitration Application No.110 of 2016 filed by the Applicant herein under Section 11(6) of the Act, 1996, wherein the Applicant sought appointment of an independent Arbitrator. The said application was dismissed by this Court by order dated 09.06.2020, upholding the appointment made in terms of the contractual clause and holding that the arbitration was governed by the pre-Amendment Act, 2015 regime.

9. The said order was carried in Special Leave Petition (C) No.13500 of 2020 before the Hon'ble Supreme Court, which came to be dismissed by order dated 15.03.2024, thereby affirming the

judgment of this Court and rendering the issue final between the parties.

10. Aggrieved by the unilateral appointment mechanism and the continuation of arbitral proceedings, the Applicant approached this Court by filing the present arbitration under Section 14, read with Sections 15 and 11 of the Act, 1996, seeking appropriate reliefs including termination of the mandate of the arbitrator and appointment of an independent arbitrator.

11. The present Arbitration Application, therefore, arises in the backdrop of the said proceedings, centering around the validity of the arbitral process, the legality of unilateral appointment of the arbitrator, and the consequential rights of the parties under the Arbitration and Conciliation Act, 1996.

## 12. **CONTENTIONS OF THE APPLICANT**

i) The Applicant assails the impugned proceedings primarily on the ground that the arbitral process initiated by the Respondent is vitiated in law and contrary to the mandate of the Act, 1996.

ii) At the outset, it is contended that the Respondent has exercised unilateral control over the constitution of the Arbitral

Tribunal by invoking the contractual clause empowering its Managing Director to appoint sole arbitrator. According to the Applicant, such unilateral appointment strikes at the root of the principles of neutrality, independence, and impartiality of the arbitral process, which are foundational to arbitration law. The Applicant submits that once disputes had arisen between the parties, the Respondent, being an interested party, could not have retained exclusive authority to appoint the arbitrator.

iii) It is further contended that the initial appointment made by the Respondent was itself legally unsustainable, and although the said arbitrator subsequently recused, the Respondent again proceeded to appoint a substitute arbitrator unilaterally. The Applicant submits that such successive appointments by one party demonstrate a continued dominance over the arbitral process and render the proceedings inherently biased and contrary to Sections 12 and 18 of the Act.

iv) The Applicant also asserts that it had raised specific objections under Section 12(3) of the Act, 1996 regarding justifiable doubts as to the independence and impartiality of the

arbitrator. These objections, according to the Applicant, were not adequately addressed, thereby necessitating judicial intervention under Sections 14 and 15 of the Act, for termination of the arbitrator's mandate.

v) Another principal contention advanced is that once the originally appointed arbitrator recused, the Respondent forfeited its contractual right, if any, to appoint a substitute arbitrator, particularly in light of the disputes having crystallized and the Applicant having expressed lack of confidence in such unilateral mechanism. It is argued that, in such circumstances, the appointment ought to have been made through the intervention of the Court under Section 11 of the Act, to ensure fairness and neutrality.

vi) The Applicant further submits that the Respondent has acted in breach of the statutory scheme introduced by the Act, 2015, which emphasizes independence and impartiality of arbitrators and restricts party autonomy where it conflicts with these principles. The unilateral appointment procedure, it is

contended, is hit by the ineligibility provisions and the broader doctrine against bias.

vii) In addition, the Applicant contends that the arbitral proceedings themselves are liable to be set aside or stayed, as they are being conducted pursuant to an invalid constitution of the Tribunal. It is argued that continuation of such proceedings would cause grave prejudice to the Applicant and defeat the very purpose of a fair adjudicatory mechanism.

viii) Lastly, the Applicant submits that the Court, while exercising jurisdiction in the present proceedings, ought to ensure that the arbitral tribunal is constituted in a manner consistent with the principles of natural justice, equality of parties, and statutory safeguards, and accordingly seeks termination of the mandate of the unilaterally appointed arbitrator and appointment of an independent arbitrator through the Court.

### **13.LAW AND ANALYSIS**

i) The principal question that arises for consideration in the present proceedings is whether the application filed under Sections

14 read with Sections 11 and 15 of the Act, 1996 is maintainable in the facts and circumstances of the case.

ii) At the outset, it is necessary to advert to the prior litigation between the parties, which has a direct bearing on the issue at hand. The Applicant had earlier invoked the jurisdiction of this Court by filing an Arbitration Application No.110 of 2016 under Section 11(6) of the Act, seeking appointment of an independent arbitrator in substitution of the arbitrator appointed by the Respondent in terms of the Work Order–cum–Agreement dated 26.09.2012.

iii) By judgment dated 09.06.2020 in Arbitration Application No. 110 of 2016, this Court declined to interfere with the appointment so made and upheld the contractual mechanism of appointment. This Court, upon a detailed consideration of the statutory scheme and the law declared by the Hon'ble Supreme Court, held that the arbitration agreement in question was governed by the pre–Amendment Act, 2015 regime and that the arbitral proceedings had commenced prior to the coming into force of the Amendment Act. It was further held that

the provisions introduced by the Arbitration and Conciliation (Amendment) Act, 2015, including Section 12(5), would not apply retrospectively so as to invalidate the agreed procedure of appointment.

iv) The said judgment has attained finality. The Special Leave Petition vide SLP (C) No.13500 of 2020 preferred by the Applicant came to be dismissed by the Hon'ble Supreme Court by order dated 15.03.2024, observing that it was not inclined to interfere with the impugned judgment and order passed by this Court.

v) Thus, the validity of the unilateral appointment mechanism contained in the agreement as also the applicability of the pre-amendment regime, stands conclusively determined *inter partes*.

vii) The Applicant, thereafter, invoked the provisions of Sections 12 and 13 of the Act, seeking recusal of the Arbitrator on the ground of alleged bias. The said application came to be rejected, and the statutory scheme, which contemplates

continuation of the arbitral proceedings subject to challenge under Section 34, was reiterated.

viii) In the aforesaid backdrop, the present proceedings under Sections 14, read with Sections 11 and 15 fall for consideration.

ix) Section 14 of the Act, provides for termination of the mandate of an arbitrator where he becomes *de jure* or *de facto* unable to perform his functions or fails to act without undue delay. The scope of the provision is narrow and is confined to situations where the arbitrator suffers from a legal or factual incapacity which renders continuation of the mandate impossible. The provision cannot be invoked as a substitute for challenging the validity of the appointment itself.

ix) Section 15 of the Act, which deals with substitution of an arbitrator, is consequential in nature and comes into operation only upon termination of the mandate under Section 14 or in circumstances expressly contemplated therein. It does not confer an independent right to seek reconstitution of the arbitral tribunal.

x) The contention of the Applicant, though couched in the language of Sections 14 and 15, is in substance a challenge to the very appointment of the Arbitrator in terms of the agreement. Such a challenge, having been raised and negated in the earlier round of litigation, cannot be permitted to be re-agitated under the guise of the present proceedings.

xi) The invocation of Section 11 of the Act, is equally misconceived. Once an arbitrator has been appointed in accordance with the agreed procedure and such appointment has been upheld by this Court, the jurisdiction under Section 11 stands exhausted and cannot be invoked repeatedly on the same grounds.

xii) In **SP Singla Constructions Pvt. Ltd. v. State of Himachal Pradesh**<sup>1</sup>, the Hon'ble Supreme Court, while dealing with the applicability of the Arbitration and Conciliation (Amendment) Act, 2015, held that the amended provisions would not apply to arbitral proceedings which had commenced prior to the coming into force of the Amendment Act, unless the parties otherwise agree. The Court emphasized that the contractual mechanism of appointment and the legal regime governing such

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<sup>1</sup>(2019) 2 SCC 488

proceedings must be tested in accordance with the un-amended Act where the arbitration had already commenced.

xiii) Similarly, in **M/s. Shree Vishnu Constructions v. The Engineer-in-Chief**<sup>2</sup>, the Hon'ble Supreme Court, following the decision in **BCCI v. Kochi Cricket Pvt. Ltd**<sup>3</sup>, elaborated upon Section 26 of the Amendment Act and held that the amendment is prospective in nature. It was held that while arbitral proceedings commenced prior to the Amendment Act would continue to be governed by the un-amended provisions, even court proceedings “in relation to” such arbitral proceedings must be examined in light of the stage at which they are initiated, thereby reaffirming the non-retrospective application of the amended provisions.

xiv) In **Central Organization for Railway Electrification v. ECI-SPIC-SMO-MCML (JV)**<sup>4</sup>, the Hon'ble Supreme Court, while considering the issue of unilateral appointment of arbitrators, reiterated the importance of independence and impartiality in arbitral appointments. However, the Court recognized that the legal principles evolved under the amended regime operate prospectively

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<sup>2</sup>(2023) 8 SCC 329

<sup>3</sup>(2018) 6 SCC 287

<sup>4</sup>(2025) 4 SCC 641

and would not unsettle arbitral proceedings commenced prior to the 2015 Amendment. Thus, the decision does not invalidate appointments made under pre-amendment agreements where the arbitral process had already been set in motion.

14) To conclude while the post-amendment jurisprudence has evolved to strengthen the principles of neutrality and independence, the same cannot be applied retrospectively so as to invalidate an appointment which has already been upheld and has attained finality between the parties. The legal position in this regard is no longer *res integra*.

15. In the present case, the arbitration agreement is dated 26.09.2012, the arbitral proceedings had commenced prior to the 2015 Amendment; the validity of the appointment mechanism has already been upheld by this Court in Arbitration Application No.110 of 2016; the said finding has attained finality upon dismissal of the Special Leave Petition (SLP) by the Supreme Court; and the Applicant has already availed the statutory remedy under Sections 12 and 13 of the Act.

16. No material has been placed on record to demonstrate that the arbitrator has become *de jure* or *de facto* unable to perform his functions or has failed to act without undue delay so as to attract Section 14 of the Act.

17. In such circumstances, the present proceedings, in substance, constitute an attempt to reopen and re-agitate an issue which stands concluded between the parties and to indirectly challenge the constitution of the arbitral tribunal. Such an exercise is clearly impermissible, both on the principles of finality of judicial determinations and under the statutory scheme of the Act, which mandates minimal judicial interference in arbitral proceedings.

18. Accordingly, this Court holds that the application filed under Section 14 read with Sections 15 and 11 of the Act, 1996 is not maintainable in law. The arbitral proceedings shall, therefore, continue in accordance with law, leaving it open to the Applicant including bias and raise all the grounds and contentions which it has raised in the present Application in all the consequential proceedings.

19. In the light of the aforesaid discussion, this Arbitration Application dismissed as not maintainable. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in this arbitration application shall stand closed.

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**JUSTICE K. LAKSHMAN**

Date: 02 .04.2026  
Vvr.