

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

AC No. 150 of 2025

(MS NATURAL PETROLIUM THROUGH ITS PROPRIETOR HUSSAINI BOHRA AND OTHERS Vs INDIAN OIL CORPORATION LIMITED THROUGH ITS CHIARMAN AND OTHERS)

Dated : 13-05-2026

Shri Aniket Naik, learned counsel for the applicants.

Shri Peyush Jain, learned counsel for the respondent / Intervener.

Shri Yogesh Kumar Mittal, Advocate with Shri Avish Mittal, learned counsel for the respondents.

Heard on : 23.01.2026

Pronounced on : 13.05.2026.

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The present application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator.

1.1 Applicant No.1 is a proprietorship concern, the proprietor of which is applicant No.2. Applicant No.1 was appointed retail outlet dealer of respondent No.1 for petrol and high-speed-diesel. The dealership for Petrol (MS) / High-Speed-Diesel (HSD) retail outlet was granted at location Thandla, District Jhabua.

1.2 Respondent No.1 is a public sector undertaking of the Government of India and respondent No.2 is the Retail Sales Head of the concerned division.

1.3 The respondents issued a public advertisement dated 14.12.2018 inviting applications for appointment of retail dealerships for the outlet at Thandla, District Jhabua.

2. In response thereto, the applicants applied for the dealership of the retail outlet at Thandla. Upon completion of the selection procedure, a Letter of Intent dated 20.09.2021 was issued to the applicants by respondent No.1 informing them that as per the selection process, the applicants had been selected to establish a retail outlet at the proposed location, subject to the terms and conditions mentioned in the said letter.

2.1 One of the conditions stipulated in the Letter of Intent ('LOI') was that in order to commence operations of the retail outlet, it was mandatory to obtain No Objection Certificate ('NOC') from all the concerned departments namely the Revenue Department, Madhya Pradesh Road Development Corporation Limited ('MPRDC'), the Collector and the District Magistrate etc. The NOC was granted by MPRDC on 27.12.2021 and the maps were issued in favour of the applicants, wherein the approach road was shown and the outlet at the proposed site was duly confirmed.

2.2 It has been specifically pointed out in the application that the respondents submitted the map to the Madhya Pradesh Road Development Corporation, detailing therein the Right of Way ('RoW'), building line, ingress and egress etc.

2.3 Based on the same, MPRDC issued No Objection Certificate in favour of the petroleum company, which is evident from the map approved by MPRDC along with the said NOC.

2.4 The Tehsildar, Tehsil Thandla also issued a No Objection Certificate dated 14.01.2020, granting permission and specifically mentioning that the Government land situated between the proposed location

and main State Highway-64 bearing Survey No.492/2 admeasuring 0.43 hectares shall not be used for any permanent construction.

2.5 In the NOC issued by the Tehsildar, specific reference was made to the NOC granted by MPRDC. It is, therefore, apparent from the approved map that the land situated from the centre line of State Highway-64 up to the plot / retail outlet of the applicants falls within the Right of Way and the same was within the knowledge of the respondents.

2.6 The District Collector, Jhabua thereafter issued the final No Objection Certificate dated 07.03.2022 for setting up the retail outlet on the land proposed by the applicants.

2.7 After obtaining all the above mentioned NOCs, the respondents issued a letter of appointment dated 16.05.2022, offering the dealership of the retail outlet at location Thandla. Pursuant thereto, a dealership agreement was executed between the applicants and the respondents. Accordingly, the applicants commenced operation of the retail outlet with effect from 30.05.2022, which is continuing till date.

2.8 After about three years of successful operation, the applicants were served with notice dated 14.12.2024 by the respondents seeking certain explanations. The applicants duly replied to the said notice. Thereafter, a further notice dated 02.07.2025 was issued by the respondents on similar grounds which were already addressed and resolved through above referred earlier correspondence.

2.9 The subsequent notice was challenged by the petitioner before this Court in W.P. No.29826/2025, however, the Court was of the opinion that at

the stage of show-cause-notice, interference was not warranted. Accordingly, the writ petition was disposed of *vide* order dated 07.08.2025.

2.10 The applicants thereafter submitted reply on 02.07.2025, explaining that there was no suppression of facts and that the Land Evaluation Committee (LEC) had visited the site and had approved the plot of the applicants. On receiving the said reply, the respondents issued another notice dated 25.08.2025 proposing permanent termination of the dealership, alleging violation of Clause 4(1) of brochure and Clause 45(i) of the dealership agreement, based on the alleged admission of the applicants regarding the existence of Government land between the Right of Way (RoW) and the plot offered for the retail outlet.

2.11 At this stage, the applicants invoked Clause 62 of the dealership agreement which provides for dispute resolution by way of arbitration. Consequently, an application in terms of Section 9 of the Arbitration and Conciliation Act, 1996 was filed before the Commercial Court, Indore, registered as MJC AC No.75/2025, wherein interim order dated 04.09.2025 was passed protecting the applicants.

2.12 In view of the above facts, the applicants issued notice dated 06.11.2025 to the respondents thereby invoking the arbitration clause and proposing the name of arbitrator. However, the respondents declined to accord their consent to the arbitrator proposed by the applicants *vide* their reply dated 03.12.2025. Consequently, the present application has been filed for appointment of arbitrator by invoking provisions of Section 11 of the Arbitration and Conciliation Act, 1996.

3. Learned counsel for the applicants, in view of the aforesaid facts, submits that clear dispute exists between the parties and that having regard to Clause 62 of the agreement, the said dispute squarely falls within the purview of the arbitration clause. It is further submitted that since the parties have failed to appoint arbitrator in terms of the arbitration agreement, this Court should appoint arbitrator for resolution of the dispute between the parties.

4. Responding to the arguments of the learned counsel for the applicants, learned counsel for the respondents submit that, in fact, no dispute is in existence and that the present application is premature.

4.1 It has been stated in the reply filed by the respondents that the applicants were selected pursuant to the advertisement issued by the Corporation on 14.12.2018. As per the brochure governing selection of dealers, land evaluation was conducted by the Corporation through the Land Evaluation Committee ('LEC'), which visited the proposed location of the applicants and carried out physical evaluation of the land. The committee, in its report, clearly stated that Government land exists between the proposed site and the road.

4.2 It has further been stated that the respondent Corporation subsequently received complaint regarding the presence of Government land between the road and the proposed plot of the applicants, wherein it was observed that Government land bearing Survey No.492/2 exists beyond the Right of Way (RoW) and before the offered plot of the applicants.

4.3 It has further been stated that as per the brochure for selection of

dealers for regular and rural retail outlets dated 24.11.2018, it is specifically provided that the offered land must be of the requisite dimensions and must abut the road boundary after leaving the Right of Way line of the road.

4.4 It is further provided in the said brochure that if, at later stage, it is found that the offered plot does not meet any of the stipulated conditions, the offered land shall be rejected. As such, pursuant to complaint, a fact finding letter dated 02.07.2025 was issued to the applicants seeking their response. However, the applicants challenged the said letter by filing W.P. No.29826/2025, which was dismissed by this Court *vide* order dated 07.08.2025. Only after the dismissal of the writ petition did the applicants submit their reply. Thereafter, show cause notice dated 25.08.2025 was issued to the applicants proposing termination of the dealership agreement in light of the alleged false declarations made during the land evaluation process.

4.5 It is further stated that instead of filing reply to the said show cause notice, the applicants directly preferred application under Section 9 of the Arbitration and Conciliation Act, 1996 before the Commercial Court and thereafter invoked the arbitration clause *vide* notice dated 06.11.2025, proposing the names of two retired District Judges for appointment as sole arbitrator for adjudication of the alleged dispute. However, the Corporation expressed its inability to agree to the appointment of the arbitrator so proposed by the applicants.

4.6 The respondents further state that although the existence of arbitration clause in the dealership agreement is not disputed, the mere

existence of such clause does not *ipso facto* entitle the applicants to seek appointment of arbitrator unless a live crystallised and arbitrable dispute has arisen in accordance with the terms of the contract. Learned counsel for the respondents submit that present application is a clear abuse of the process of law.

5. The applicants had earlier approached this Court by way of writ petition and having failed therein, have now invoked the arbitration clause mischievously in respect of a mere show-cause-notice.

6. The respondents have merely issued a show cause notice seeking explanation from the applicants. The rights of the parties have neither crystallised nor has any conclusive decision affecting the dealership been taken. Mere apprehension of adverse action does not give rise to cause of action.

7. It has further been stated that the applicants are improperly invoking the Section 11 of the Arbitration and Conciliation Act, 1996 with an oblique motive to prevent the respondents from exercising their contractual powers and to freeze ongoing administrative proceedings.

7.1 It has further been argued that even in the unlikely event of termination in the future, the applicants have effective, adequate and alternative contractual remedy namely filing an appeal before the appellate Authority, invoking arbitration and seeking damages for alleged wrongful termination. By the present application, however, a negative injunction is being sought restraining the corporation from exercising its rightful obligations under the dealership agreement as well as the selection brochure.

8. Clause 62A of the dealership agreement provides for arbitration in respect of disputes regarding any rights or liabilities arising out of or in relation to the agreement. A mere issuance of show cause notice proposing action does not give rise to any concluded right or liability and therefore, does not constitute an arbitrable dispute within the meaning of the said clause.

8.1 In support of his submissions, learned counsel for the respondents placed reliance on the judgment of this Court passed in the case of *Indian Oil Corporation Ltd. and Others vs. Tatpar Petroleum Centre* in (2022) 4 MPLJ 79.

9. Apart from the respondents, there is one person who has filed an application for intervention in the matter i.e. I.A. No.125 of 2026. It has been stated in the application that the proposed intervener is the complainant who lodged complaint before the respondents on the basis of which the entire action was taken against the applicants. Thus, he is a necessary party in the matter.

9.1 In support of his submissions, learned counsel placed reliance on the judgment of the Hon'ble Apex Court in the case of *E. Venkatakrisna vs. Indian Oil Corporation and Another* in (2000) 7 SCC 764.

10. Learned counsel for the applicants objecting to the application for intervention, placed reliance on order passed by this Court in the case of *Kamal Gupta and Another vs. L.R. Builders Pvt. Ltd. and Another* in 2025 SCC OnLine SC 1691.

10.1 As regards the absence of dispute, learned counsel for the

applicants has placed reliance on the judgments of the Hon'ble Apex Court and this Court in the following cases :

"(i) *SBI General Insurance Company Limited vs. Krish Spinning* in (2024) 12 SCC 1;

(ii) *Indian Oil Corporation Ltd. and Others vs. Tatpar Petroleum Centre* in 2022 SCC OnLine MP 124;

(iii) *Indian Oil Corporation Ltd. and Others vs. M/s Tatpar Petroleum Centre* in SLP (C) No(s).6353/2022;

(iv) *Union of India and Another vs. Kunisetty Satyanarayana* in (2006) 12 SCC 28;

(v) *Major (Retd.) Inder Singh Rekhi vs. Delhi Development Authority* in Civil Appeal No.1178/1988 [arising out of SLP (C) No.2009/1987 vide order dated 24.03.1988]; and

(vi) *M/s Sahni Fuels vs. Indian Oil Corporation Limited and Others* in W.A. No.869/2025 vide order dated 28.03.2025."

11. Heard learned counsel for the parties and perused the record.

12. Clause 62 of the dealership agreement is a dispute resolution clause which provides as under :

"62. (a) Any dispute or difference of any nature whatsoever, any claim, cross-claim, counter-claim or set-off or regarding any right, liability, act, omission or account of any of the parties hereto arising out of or in relation to this agreement shall be referred to the sole arbitration of the Director (Marketing) of the Corporation who may either himself act as the Arbitrator or nominate some other officer of the Corporation to act as the Arbitrator. The Dealer will not

be entitled to raise any objection to any such Arbitrator on the ground that the Arbitrator is an Officer of the Corporation.

(b) In the event of the Arbitrator to whom the matter is originally referred being transferred, he shall be entitled to continue the arbitration proceedings notwithstanding his transfer unless the Director (Marketing) at the time of such transfer or at any time, thereafter, designates another person to act as Arbitrator in his place in accordance with the terms of this agreement.

(c) In the event of the arbitrator, to whom the matter is originally referred vacating his office or being unable or refusing to act for any reason, the Director (Marketing) at the time of vacation of office or inability or refusal to act, shall designate another person to act as Arbitrator in accordance with the terms of this agreement.

(d) The Arbitrator newly nominated by the Director (Marketing) under clause (b) or under clause (c) above, shall be entitled to proceed with the reference from the point at which it was left by his predecessor.

(e) It is an express term of this contract that no person other than the Director (Marketing) or a person nominated by such Director (Marketing) of the Corporation as aforesaid shall act as Arbitrator hereunder. If for any reason, Director (Marketing) is unable or unwilling or refuse or fails to act as Arbitrator or nominate an Arbitrator then the matter shall not be referred to arbitration at all..

(f) The award of the Arbitrator so appointed shall be final conclusive and binding on all parties to the agreement subject to the provisions of the Arbitration Act. 1940 or any statutory modification or re-enactment thereof and the rules made there under for the time

being in force shall apply to the arbitration proceedings under this clause.

(g) The award shall be made in writing and published by the Arbitrator within two years after entering upon the reference or within such extended time not exceeding one further year as the parties shall by writing agree. The parties hereto shall be deemed to have irrevocably given their consent to the Arbitrator to make and publish the award within the period referred to herein above and shall not be entitled to raise any objection or protest thereto under any circumstances whatsoever.

(h) The Arbitrator shall have power to order and direct either of the parties to abide by, observe and perform all such directions as the arbitrator may think fit having regard to the matters in difference i.e. dispute before him. The arbitrator shall have all summary powers and may take such, evidence oral and/or documentary as the arbitrator in his absolute discretion thinks fit, and shall be entitled to exercise all powers under the Indian Arbitration Act, 1940, including admission of any affidavit as evidence concerning the matter in difference i.e. dispute before him.

(i) It is hereby expressly agreed that the powers of the Arbitrator nominated in the matter herein before mentioned shall include the power to make Interim order/orders, as the circumstances of the case may justify, to appoint a receiver, commissioner or custodian by whatever name called to take possession of the property in dispute during the pendency of the proceedings and subject to such final order as may be passed by the Arbitrator and shall also have the power to issue such further orders from time to time as he may

deem fit, on an application being made to him by any of the parties to the dispute where it is apprehended that the property to which it relates is in danger of being wasted, damaged, deteriorated or parted with or rights of other third parties are likely to be created thereon.

(j) The parties against whom the arbitration proceedings have been, initiated, that is to say, the Respondents in the proceedings shall be entitled to prefer a cross-claim, counter-claim or set off before the Arbitrator in respect of any matter in issue arising out of or in relation to the agreement without seeking a formal reference of arbitration to the Director (Marketing) for such counter-claim, cross-claim or set off and the arbitrator shall be entitled to consider and deal with the same as if the matters arising there from have been referred to him originally and deemed to form part of the reference made by the Director (Marketing).

(k) The Arbitrator shall be at liberty to appoint, if necessary, any Accountant or Engineer or other technical person to assist him and to act on the opinion taken from such person.

(i) The Arbitrator shall have power to make one or more award/s whether interim or otherwise in respect of the dispute and difference and in particular, will be entitled to make separate awards in respect of claims or cross-claims of the parties.

(m) The Arbitrator shall be entitled to direct anyone of such parties to pay the costs of the other party in such manner and to such extent as the Arbitrator may in his discretion determine and shall also be entitled to require one or both the parties to deposit funds in such proportion to meet the Arbitrator's fees and expenses as and when called upon to do so."

13. The main contention of the respondent with respect to the present application is that the same is not maintainable due to the absence of any dispute. It has been submitted that the applicant has rushed to this Court for appointment of arbitrator, which is contrary to the provisions of the agreement. The agreement provides right to the respondent to pass order, which may thereafter be subjected to appeal before the appellate Court. However, this submission is not sustainable in teeth of the clear provisions of Clause 62 of the agreement, which without any qualification provides that any dispute or difference of any nature whatsoever, including any claim, cross-claim, counter-claim or set off regarding any right, liability, act, omission or account of any of the parties, shall be referred to the sole arbitrator, namely the Director (Marketing) who may either act as the arbitrator himself or nominate some other officer of the Corporation to act as the arbitrator. It is thus clear that there is no qualification as to the stage at which the parties may refer the dispute to arbitration.

14. The question that now arises is whether there exists dispute between the parties. The respondents issued notice dated 02.07.2025, whereby it was reminded to the applicant that if at later stage, it is found that the offered plot does not meet any of the above conditions, the offered land would be rejected.

15. By the above said fact-finding letter/notice, the applicant was advised to submit reply on the points mentioned therein.

16. The applicant initially filed Writ Petition No.2982/2025 and after its dismissal filed its reply. On receipt of the reply, show cause notice dated

25.08.2025 was issued proposing termination of the dealership, alleging violation of Clause 45(i) of the Dealership Agreement. Thus, the question before this Court is whether the said notice proposing termination which has been stated to be the point from which the dispute has arisen, can be presumed to constitute dispute between the parties.

16.1 Co-ordinate Bench of this Court in the case of *M/s Sahni (Supra)* has held that show cause notice and the reply thereto denying the allegations contained in the show cause notice may constitute dispute. Even in the case of *Tatpar (supra)* on which the respondent counsel has placed reliance, the Division Bench of this Court has held as under :

"7. The only question before this Court is that in the absence of any termination of the dealership, any dispute had arisen between the rival parties to enable the respondent to invoke section 9 of the 1996 Act.

8. Surprisingly, the expression 'dispute' is not defined in the 1996 Act though the expression find reference in number of provisions contained in the 1996 Act, and the principal object behind the Act is to resolve dispute between rival parties through different modes including arbitration.

Since the 1996 Act does not define the expression 'dispute', this Court has to fall upon the dictionary meaning of the said expression which is as follows:

Black's Law Dictionary, 5th edition, page 424 defines 'dispute' as under:

"to argue about, to contend ... words; an argument; a debate; a quarrel".

Cambridge Dictionary defines 'dispute' as under:

"a disagreement or argument between two people, groups or countries."

Collins' Dictionary defines 'dispute' as under:

"A dispute is an argument or disagreement between people or groups."

9. From the aforesaid dictionary meaning of expression 'dispute', it is evident as daylight that for a dispute to arise there should exist an assertion/claim which is refuted by the other side. Thus, dispute is a bilateral contract where at least two rival parties have disagreement over a particular aspect. A dispute cannot arise when only one party asserts and other remains silent. Whether the assertion made by one and the denial made by the other leaves to passing of any particular order by one of the party is not necessary for arising of a dispute. An assertion by one and denial/said assertion by another is enough for germination of the concept of a dispute.

10. Reverting to the factual matrix of the case, it is seen that show cause notice was issued on 31-3-2021 asking the petitioner to show cause as to why his dealership agreement be not terminated for certain lapses for discovery of illegalities prima facie demonstrating manipulation of dispensing unit, operation and delivery of fuel from dispensing unit. In response, the respondent initially sought time on 3-5-2021 vide Annexure A/3 which was granted by extending the period of submission of reply by 11-6-2021. As per the contents of para 4.3 of this appeal, the IOC has submitted that the respondent had filed reply to the show cause notice and thereafter was given a personal hearing on 9-9-2021 vide Annexure R/5.

In the reply and as well as the personal hearing, the respondent refuted the contents of the show cause notice and sought its withdrawal. This act of assertion by way of show cause notice and refuting by way of reply by the respondent gives rise to dispute as contemplated in clause 62(a) of the dealership agreement (Annexure R/3) thereby concurring right upon the respondent to invoke section 9 of the 1996 Act for seeking the remedies provided therein before arbitral proceedings are commenced.

11. The legal pronouncement of the Apex Court relied upon by the rival parties need not be dealt with since none of them pertain to the issue attending the instant case. However, the decisions are clear on the point that whenever an assertion is made by one party and denied by the other then a dispute arises. Thus, the decisions relied upon by the rival parties support the cause of the respondent herein. This Court accordingly refrains from entering into the prolixity of undertaking discussion regarding applicability/non-applicability of each citation relied upon.

12. From the above discussion, it is vivid that on the IOC issuing a show cause notice and respondent refuting the same by way of reply and in the personal hearing, dispute between the rival parties germinated making available cause of action to the respondent to invoke section 9 of the 1996 Act."

16.2 Now, in the present case initially notice was given whereby specific points were directed to be explained by the respondents. The petitioner filed reply and explained those points. The respondent not being satisfied by the explanation of the petitioner, issued notice proposing termination of the dealership. Thus there is clear existence of divergent views on a given issue in the present case, which in view of the aforementioned position of law can be termed as dispute between the parties. As such, this Court is of the considered view that in the present case, the dispute between the parties is very much present and alive.

17. In view of the arbitration clause referred to herein above, the existence of arbitration agreement is also not in dispute, as the same has not been denied by the respondent.

17.1 It was for the parties to decide the mode of dispute resolution at the time of execution of the agreement. The respondent agreed for the

arbitration as a mode of resolution of dispute with open eyes and without qualifying it with any such condition that the concerned authority must first pass order and supply the same to the applicant in accordance with the guidelines and only thereafter arbitration may be resorted to. No such qualification exists in the arbitration agreement.

17.2 Thus, the contention of the learned counsel for the respondent that the present application for arbitration is premature is hereby rejected.

18. As far as the question of permitting the intervener to intervene in the present matter, the sole contention of the learned counsel for the intervener is that question of public land is involved in the present matter as between the plot of the petitioner and the road public land is situated and the intervener is the person who made the complaint before the respondents against the petitioner.

18.1 In the considered view of this court the intervention application deserves to be dismissed for the reason that the issue involved in the present case pertains to the contractual relationship between the petitioner and the respondent, the intervenor is not the signatory to this agreement, which also contains the arbitration clause. The Hon'ble Apex Court considering similar circumstances has held in the case of *Kamal Gupta v. L.R. Builders (P) Ltd.*, 2025 SCC OnLine SC 1691 as under :

"12. In proceedings filed under Section 11(6) of the Act seeking appointment of an arbitrator, the respondents had made a prayer for intervention. The said prayer was duly considered by the learned Judge while appointing a sole arbitrator on 22.03.2024. While declining the prayer for intervention, it was specifically held that the

apprehension expressed by the intervenors that in the proposed arbitration proceedings the parties would deal with the properties of the intervenors was misplaced. It was further observed that even if it was assumed that the sole arbitrator was to deal with the properties of the intervenors, the resultant arbitral award would not be binding on them. It was thus held in clear terms that the presence of the intervenors before the sole arbitrator was not essential for adjudication of disputes between the parties to the MoU/FSD, namely PG and KG. In express terms, the intervention applications filed in the arbitration petition as well as similar applications filed in proceedings under Section 9 of the Act came to be dismissed as can be seen in paragraph 34 of the judgment dated 22.03.2024.

13. It is not in dispute that RG and the other intervenors are not signatories to the MoU/FSD that has given rise to the arbitration proceedings. The provisions of Section 35 of the Act are clear inasmuch as an award passed would only bind parties to the arbitration and persons claiming under them. The expression 'party' has been defined by Section 2(h) of the Act to mean a party to an arbitration agreement. By virtue of the order passed under Section 11(6) of the Act, the sole arbitrator is empowered to adjudicate the disputes between the signatories to the MoU/FSD. Once it is clear that the arbitral award would not bind non-parties to the said MoU/FSD as such parties were not signatories to the said documents, there would be no legal basis whatsoever to permit a non-signatory to the MoU/FSD to remain present in the proceedings before the sole arbitrator. When the arbitration proceedings can take place only between parties to an arbitration agreement and Section 35 of the Act does not make the arbitral award to be passed binding on non-signatories to such agreement, we do not find any legal right conferred by the Act that would enable a non-party to the agreement to remain present in arbitration proceedings between signatories to the agreement. It is not the case of any of the parties to the MoU/FSD that RG and the intervenors were claiming through any of them in the context of Section 35 of the Act. The parties to the agreement being bound by the terms of the agreement and the sole arbitrator being required to resolve the disputes between parties to the agreement, a non-signatory to the agreement would be a stranger to

such arbitration proceedings. Permitting a stranger to remain present in the arbitration proceedings especially when the award to be passed would not be binding on such stranger would be charting a course unknown to law. The remedy, if any, to a party who is not a signatory to the agreement is available under Section 36 of the Act if such award is sought to be enforced against him.

14. At this stage, it is necessary to refer to the provisions of Section 42A of the Act. The arbitrator, the arbitral institution and the parties to the arbitration agreement have to maintain confidentiality of all arbitral proceedings. The legislative intent behind maintaining confidentiality of information is quite clear. Permitting a stranger to the arbitration proceedings to remain present and observe the said proceedings would result in breach of the provisions of Section 42A of the Act. Even on this count the impugned order cannot be sustained.

15. We are therefore of the view that the permission granted to RG, a non-signatory to remain present in all proceedings before the sole arbitrator is without jurisdiction as well as beyond the scope of the Act. The first question stands answered accordingly."

18.2 The reliance placed by the learned counsel for the intervener on the judgment in the case of E. *Venkatakrishna (supra)* is misplaced in the said case the jurisdiction of the arbitral tribunal was under consideration which is not the issue involved in the present case. In any case, the intervener is neither having any interest in the contract under dispute nor is the signatory to the same. Merely because he filed a complaint against the petitioner that resulted in issuance of notice to him will not give him a right to participate in the proceedings of arbitration. As noted by the Hon'ble Apex Court in the above referred case confidentiality of the proceedings is a statutory mandate which cannot be permitted to be violated on asking of a stranger by claiming involvement of public property which in fact is not even the issue under the

agreement, as the agreement is retail outlet dealership agreement, not conferring any kind of right on any immovable property to the petitioner. In view these finding the application for intervention is hereby rejected.

19. As such, this Court is of the considered view that the present is a case where all the ingredients required under Section 11 of the Arbitration and Conciliation Act, 1996 are satisfied.

19.1 The arbitration agreement exists and its existence has not been denied by the respondent. The parties have failed to appoint arbitrator by mutual consent and live dispute exists between them.

19.2 As such, the present is a fit case for invoking the powers under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator.

20. Accordingly, the name of **Hon'ble Shri Justice Virender Singh (Retd. Judge of M.P. High Court)** is proposed for appointment as the Arbitrator.

21. Let a declaration in terms of Section 11(8) read with Section 12(1) of the Arbitration & Conciliation Act, 1996 in the prescribed form as contained in sixth Schedule of the Act be obtained from the proposed Arbitrator by the Principal Registrar of this Court before the next date of hearing.

List the matter on 15.05.2026.

(PAVAN KUMAR DWIVEDI)
JUDGE