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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**# **CNR No. DLHC011352162017**+ **O.M.P. (COMM) 145/2017****M/S LANCO-RANI(JV)**

.....Petitioner

Through: Mr. A.K. Singla, Senior
Advocate along with Ms.
Sayantani Basak, Mr. Sahil
Kumar, Ms. Nandini Gupta,
Ms. Drishti Sarin, Advs.

versus

M/S NATIONAL HIGHWAYS AUTHORITY OF INDIA

.....Respondent

Through: Mr. Madhu Sweta, Mr. Arnav
Mathur, Ms. Srishti Bajpai, Ms.
R. Suhani, Mr. Ayush Kumar,
Advs.

CORAM:**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT(ORAL)**

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02.09.2026

1. The present petition under Section 34 of the Arbitration and Conciliation Act, 1996¹ is directed against the majority award dated 07.06.2008 passed by the learned Arbitral Tribunal in the dispute between the Petitioner, M/S Lanco-Rani (JV), and the Respondent, National Highways Authority of India².

2. The dispute arises out of the contract agreement dated 30.08.2001 for four-laning of Km 419.000 to Km 447.000 of the Purnea-Gayakota Section of NH-31 in the state of Bihar.

3. Mr. A. K. Singla, learned Senior Counsel appearing for the Petitioner, at the outset, submits that he is confining the challenge to

¹ "Act" hereinafter

² "NHAI" hereinafter



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the impugned award on the ground of biasness.

4. He refers to the Application numbered as I.A. 20791/2017, filed in the present petition which sought permission to treat the above contention as an additional ground as well.

5. Learned Senior Counsel for the Petitioner submits that Dr. C.S. Suryawanshi, who was nominated by the NHAI as its nominee Arbitrator, was an employee of Consulting Engineering Services (India) Private Limited³. According to learned Senior Counsel, CES had an ongoing professional and commercial relationship with NHAI and had acted as consultant/Engineer for NHAI in several highway projects.

6. It is submitted that, at the time of Dr. Suryawanshi's appointment, the Petitioner was unaware of his employment with CES and of CES's professional relationship with NHAI. Therefore, it had no real opportunity to object to his appointment at that stage.

7. Learned Senior Counsel for the Petitioner accepts that CES was not the Engineer in the particular project which is the subject matter of the present arbitration. However, he has submitted that Dr. Suryawanshi's professional association with CES, coupled with CES's substantial business relationship with NHAI, was itself a circumstance that ought to have been disclosed by the Sole Arbitrator, prior to his reference.

8. According to the Ld. Senior Counsel, these subsequent facts

³ "CES" hereinafter



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were discovered only after the filing of the petition under Section 34 of the Act and since they go to the very root of the controversy, the same has been highlighted by a separate Application referred to herein above.

9. I have heard learned Senior Counsel for the Petitioner on this limited issue.

10. The only short issue which arises for consideration before this Court is as to whether the allegations made by the Petitioner against the Arbitrator establishes a sustainable apprehension of bias sufficient to vitiate the award under Section 34.

11. It is pertinent to note that arbitration was invoked and the Tribunal came to be constituted before 23.10.2015.

12. Thus, in view of *Hanson Agro Limited v. GAIL (India) Limited & Connected Matters*⁴, unamended Sections 12 and 13 of the Act will apply.

13. The Hon'ble Supreme Court in the decision of *Indian Oil Corporation Ltd. v. Raja Transport (P) Ltd.*⁵, and *Aravali Power Co. Pvt. Ltd. v. Era Infra Engineering Ltd.*⁶, affirmed the view that even if, an Arbitrator may be an employee of one party, the same was not *ipso facto* enough to prove biasness. The Hon'ble Apex Court clarified that there ought to be a justifiable apprehension arising from specific circumstances.

⁴ 2026:DHC 7440

⁵ (2009) 8 SCC 520

⁶ (2017) 15 SCC 32



14. The Coordinate Bench of this Court in ***Hanson Agro Limited v. GAIL (India) Limited & Connected Matters (supra)*** recorded the following observation on this issue:

“42. After examining Sections 11, 12 and 18 of the 1996 Act, the Court held as follows:

“15. It is now well settled by a series of decisions of this Court that arbitration agreements in government contracts providing that an employee of the Department (usually a high official unconnected with the work or the contract) will be the Arbitrator, are neither void nor unenforceable. We may refer to a few decisions on this aspect.

43. The reason for the above observation was that Section 11(2) permitted parties to agree upon the procedure for appointment of the Arbitrator and that the power of the Court under Section 11 was not intended to nullify a specific term of the arbitration agreement naming the Arbitrator.

44. Arbitration, the Court held, is a binding voluntary alternative dispute resolution process by a private forum chosen by the parties; where a party, with open eyes and full knowledge of the clause, enters into a contract with a Government/statutory corporation/PSU providing that one of its own officers shall be the Arbitrator, it cannot later accept the benefit of the arbitration mechanism while repudiating the named Arbitrator term, unless that part is impossible of performance or void for repugnancy to the Act and severable from the rest.

45. The Court then traced a long and consistent line of authorities, *Executive Engineer v. Gangaram Chhapolia*, 1984 (3) SCC 627, *Eckersley v. Mersey Docks and Harbour Board*, 1894 (2) QB 667, *Secy. to Govt., Transport Deptt. v. Munuswamy Mudaliar*, 1988 (Supp) SCC 651, *International Airports Authority of India v. K.D. Bali*, 1988 (2) SCC 360, *S. Rajan v. State of Kerala*, 1992 (3) SCC 608, and *Ace Pipeline Contracts (P) Ltd. v. Bharat Petroleum Corpn. Ltd.*, 2007 (5) SCC 304, all holding that arbitration agreements naming a senior officer of the Government/statutory corporation/PSU as Arbitrator are neither void nor unenforceable, and that mere apprehension of bias without tangible/specific evidence is not a ground for removal.

46. It further rejected the respondent's argument that the 1996 Act's heightened emphasis on independence and impartiality (Sections 11(8), 12(1), 12(3) and 18) rendered such clauses *per se* invalid, holding that these provisions operate as safeguards within the employee-Arbitrator framework (disclosure obligations, challenge procedure, duty of equal treatment) rather than as a



statutory bar on naming an employee as Arbitrator, and that nothing in Sections 11, 12 or 18 suggests such a clause is invalid merely because the named Arbitrator is an employee of a party.

47. **On this basis the Court arrived at its finding that, the fact that the named Arbitrator is an employee of one of the parties is not ipso facto a ground to presume bias, partiality, or lack of independence.**

48. **The Court held that apprehension of bias arises only where there is something concrete, such as the Arbitrator being the controlling/dealing authority under the contract or a direct subordinate of the decision-maker. Where the nominated officer had no involvement in the contract or decision in question, his independence could not be doubted merely because he was an employee of the State or its instrumentality."**

15. It is clear that on the aspect of non-disclosure, the law is settled that every non-disclosure does not *ipso facto* justify a challenge and the real enquiry remains whether the undisclosed circumstance itself gives rise to justifiable doubts regarding the arbitrator's independence or impartiality.

16. Having gone through the record of the present matter and applying the above-mentioned authorities to the facts of the present case, it is clear that in the present case, the Petitioner must satisfy something more than CES simply having some relationship with NHAI as a client.

17. After transpiring the records and the submissions made by the learned Senior Counsel, this court is unable to subscribe to the views of the Petitioner.

18. Apparently, the allegations are *dehors to the material on records* and do not establish any causal link between the allegation made and the records. The Ld. Sr. Counsel has been unable to show any material that the majority members were improbably influenced



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by the NHAI or that their decision was the product of their disqualifying interest.

19. The mere fact that one Arbitrator had previously being appointed with other NHAI project without signifying anything more, cannot establish actual biasness, nor can the Court infer biasness solely from the fact that the majority conclusion does not adverts to the Petitioner, particularly when the award record extensive constitution of the contractual provisions and reasoning.

20. According to this Court, a vague intuition of biasness at such a belated stage or a simple suspicion by an unhappy party of biasness is not enough to claim biasness, as any such allegation must rest on solid facts, clear evidence, or statutory conflicts. The Petitioner has failed to show any such evidence or plead any such circumstances, which would lead this Court to hold biasness remotely.

21. For the reasons stated above, this Court is of the view that the Petitioner has failed to make out any ground under Section 34 of the Act warranting interference with the majority award dated 07.06.2008.

22. The disqualifications specified in the Seventh Schedule of the Act are therefore not attracted in the present case.

23. The present petition is accordingly dismissed, along with all pending applications.

OM PRAKASH SHUKLA, J

SEPTEMBER 2, 2026/at/gunn