IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Appeal No.340 of 2026
Reserved on: 16.10.2026
Date of decision: 06.11.2026

M/s Shree Shyam Roadlines ...Appellant

Versus

Hindustan Petroleum Corporation Ltd. & another ...Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the appellant : Mr. Kshitij Sharma, Senior Advocate with Ms. Priya Sharma and Mr. Shobhit Sharma, Advocates.

For the respondents : Mr. Nitin Thakur, Advocate.

Romesh Verma, Judge:

The instant arbitration appeal has been filed against the judgment dated 06.06.2026 as passed by the learned District Judge, Solan, whereby an application filed by the present appellant under Section 9 of the Arbitration and Conciliation Act, 1996, was dismissed.

2. The facts as emerge in the present case are that the respondent issued Detailed Notice Inviting Tender (DNIT) for the supply of tank trucks of different capacities on 17.10.2024. As per the terms and conditions stipulated therein, the due date for the submission of bids was 08.11.2024.

Whether reporters of Local Papers may be allowed to see the judgment?

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3. It is the case of the appellant and a perusal of the record reveals that vide Annexure A-3, the respondent issued a Letter of Acceptance (LOA) on 25.02.2025. The Letter of Acceptance was issued to the appellant, whereby the offer received from the appellant was accepted under the MSE category for Transportation of Bulk POL Products MS/HSD and Branded fuels by road Ex-Nalagarh at different rates. As per the Letter of Acceptance, it was stipulated that the appellant was required to submit performance security of Rs.8 lakhs in the form of a demand draft drawn on any scheduled bank in favour of M/s Hindustan Petroleum Corporation Limited, as specified by HPCL or in the form of a bank guarantee in the specified proforma.

4. Further, the appellant was directed to produce the original documents of the trucks offered in the tender for verification by the respondent, including the RC book, calibration certificate, explosives licence, and fitness certificate, along with photocopies thereof for the record of respondent. The parties entered into an agreement on 26.03.2025 and a copy thereof has been placed on record as Annexure A-3A.

5. As per the stipulation contained in Clause 3, it was specified that the carrier would ensure that the tank trucks listed in the Letter of Acceptance are always maintained in sound mechanical condition and having all fittings up to the standards laid down by the company from time to time. It was further incorporated that the carrier

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must meet the requirements of the company with regard to safety and operational norms specifically, the company may require that the tank trucks are painted according to particular specifications and conform to statutory regulations, including the Petroleum Act, the Petroleum Rules, the Motor Vehicles Act, NGT Rules and CPCB etc., as applicable from time to time. The agreement specifies that it is valid for a period up to 31.12.2029, with effect from 26.03.2025.

6. As per the agreement, more particularly Clause 22 thereof, the company reserves the right to terminate the agreement by giving two months' advance notice without assigning any reason and the contractor is not entitled to claim any compensation from the Corporation upon such termination, after happening of any of the following:

(a) If the carrier, its proprietor or any partner is adjudicated insolvent or becomes bankrupt or goes into liquidation whether voluntary or otherwise;

(d) If any of the information submitted by the carrier in the tender is found incorrect at any time;

(e) Breach of any of the terms and conditions of the agreement by the carrier;

(f) If the carrier commits or suffers to be committed any act which, in the opinion of the company whose decision shall be final, is prejudicial to the good

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name/ image of the company or its products or its services.

7. As per the pleadings of the respective parties, it has come on record that a complaint was lodged against the appellant on 14.04.2025. Pursuant thereto, the respondent issued a show cause notice (Annexure A-4) dated 08.07.2025 for non-compliance of the LOA/transport agreement dated 26.03.2025, on the ground of offering tank trucks not having physically bottom loading and submitting fake/ false certificates/information in respect of the tank trucks in response to the public tender dated 10.10.2024.

8. In the show-cause notice dated 08.07.2025, it was stated that a complaint was received at HPCL office via email on 14.04.2025, wherein it was averred that tank trucks bearing registration numbers HP12P3129, HP12P3429, HP12P4029, HR68B0129, HR68B0429, HR68B1929, HP12Q6129 and HR68B2229 were not ready built bottom loading before the due date of tender and these tank trucks were placed into bottom loading thereafter.

9. Thereafter, during an inspection of the tank trucks carried out at Nalagarh IRD in the presence of representatives of the appellant, significant observations were made. On the basis of a re-inspection of the trucks carried out on 05.06.2025 in the presence of the partner of the firm, Shri Dalbir Singh, critical observations were recorded that tank trucks bearing numbers HP12P3129, HR68B2229

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and HR68B1929 were not physically ready bottom loading as on the date of the fabrication certificates dated 05.11.2024, 05.11.2024 and 06.11.2024, respectively and before the due date of the tender, i.e., 08.11.2024.

10. As per the show-cause notice, fake/false fabrication certificates dated 05.11.2024, 05.11.2024 and 06.11.2024 were issued by the fabricator, as the tank trucks were not physically bottom loaded on the date of fabrication certificates and the serial numbers of the bottom loading fittings installed on these tank trucks were supplied by the authorized distributor to the fabricator on or after 02.12.2024, 02.12.2024 and 26.12.2024, respectively, which is subsequent to the date of the fabricator certificates and also after the due date of tender.

11. It was stated that fake/false Part-B of Form VII certificates dated 05.11.2024, 05.11.2024 and 06.11.2024 were issued by the competent person under the Petroleum Rules, 2002, as these tank trucks were not physically bottom loading on the date of certificates. Therefore, a show-cause notice was issued calling upon the appellant to explain its position within 10 days from the date of receipt of notice as to why the following action should not be taken against it in terms of the LOA/transport agreement, the Industry Transport Discipline Guidelines and the tender terms for committing serious irregularities:

(a) Termination of the bulk petroleum products road transport agreement;

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(b) Blacklisting of the entire fleet along with the carrier for two years;

(c) Forfeiture of the EMD and Security Deposit of Rs. 8 lakhs.

12. The appellant filed a reply to the first show-cause notice vide Annexure A-5, requesting the supply of certain documents prior to submitting its final reply. In response to the appellant's reply, the respondent replied vide communication dated 26.07.2025. The appellant again, vide Annexure A-5B, sent a communication requesting the supply of crucial documents before submitting its final reply. Thereafter, vide Annexure A-6 dated 02.09.2025, the appellant filed its reply to the show-cause notice dated 08.07.2025.

13. The respondent issued a second show-cause notice to the appellant on 24.10.2025 on account of non-compliance of the bulk petroleum products road transport agreement dated 26.03.2025 in respect of tank truck No. HP12Q6129, wherein serious irregularities were observed. As per the notice, it was stated that truck No. HP12Q6129 was loaded on 08.09.2025 from Bathinda terminal to Nalagarh IRD and during a random checking of EM locks on 10.09.2025, it was observed that lock No. HE-7150 was found suspected abuse. Hence, a joint inspection was carried out in the presence of the appellant on 11.09.2025, and the lock was sent for inspection/testing. On 29.09.2025, the lock was jointly inspected by the

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inspection team in the presence of the appellant via video conferencing. Subsequently, the lock was cut open and the video conferencing session was resumed to inform the appellant of the same. Thereafter, the appellant failed to rejoin the session, stating that his son would attend on his behalf, but he too was unreachable at the time. On 13.10.2025, a report was received declaring lock No.HE-7150 as tampered. Immediately thereafter, tank truck No. HP12Q6129 was suspended with effect from 14.10.2025 vide letter dated 14.10.2025 for indulging in serious malpractices, in violation of the transport contract & Industry Transport Discipline Guidelines (ITDG).

14. It was stated in the notice that the appellant had grossly violated various clauses of the transport agreement and was liable for action under the transport agreement and the ITDG. In view thereof, the appellant was called upon to show cause within 10 days as to why the following actions should not be taken against it in terms of the LOA/transport agreement and tender conditions for committing serious irregularities:

(i) Blacklisting of the involved tank truck number HP-12Q-6129 for two years along with the tank truck crew;

(ii) Imposition of a monetary penalty of Rs.1 lakh.

15. The appellant, in response to the show-cause notice dated 24.10.2025, filed its reply on 03.11.2025 vide Annexure A-7/1.

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16. The respondent, vide order dated 05.03.2026, terminated the agreement dated 26.03.2025, blacklisted the entire fleet for two years with effect from 08.07.2025 and directed the forfeiture of the Security Deposit of Rs. 8,00,000/-.

17. Aggrieved by the termination order dated 05.03.2026, the appellant filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996, before the learned District Judge, Solan, on 18.03.2026.

18. The learned District Judge, vide impugned judgment dated 06.06.2026, dismissed the petition filed by the appellant, holding the agreement to be determinable in nature observing that since the termination order had already taken effect, the penalties imposed were prima facie traceable to the contractual terms.

19. Dissatisfied with the aforesaid judgment, the appellant has approached this Court by filing the instant appeal, invoking Section 37(1)(b) of the Arbitration and Conciliation Act, 1996.

20. It is contended by Mr. Kshitij Sharma, learned Senior Counsel, assisted by Ms. Priya Sharma and Mr. Shobhit Sharma, learned counsel, for the appellant, that the impugned judgment passed by the learned District Judge, Solan, is erroneous and liable to be set aside. He submitted that the appellant has made out a prima facie case for the grant of protection under Section 9 of the Act; therefore, the petition filed before the learned District Judge ought to have been

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allowed by granting interim protection to preserve the subject matter in dispute. It is contended that the termination order dated 05.03.2026 passed by the respondent is a non-speaking order and cannot withstand judicial scrutiny, as the principles of natural justice were not adhered to while passing the said order. It is further contended that although a show-cause notice was issued and received by the appellant, the punitive action taken in the absence of the relevant records sought by the appellant from the respondent is illegal and unsustainable in law.

21. He further submitted that all formalities required to be completed by the appellant were performed well in time, and there was no violation of any kind warranting the termination order in the facts and circumstances of the case. As per learned Senior Counsel, the trucks were ready before the due date for all intents and purposes, and the allegations levelled by the respondent in the show-cause notice and the termination order are afterthoughts, baseless, and unsustainable in law. He submitted that upon allowing the present appeal, the impugned judgment may be quashed and set aside and the petition filed by the appellant under Section 9 of the Arbitration and Conciliation Act, 1996, deserves to be allowed.

22. On the other hand, Mr. Nitin Thakur, learned counsel for the respondents, defended the impugned judgment passed by the learned District Judge. He submitted that the learned District Judge

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has passed a well-reasoned judgment that warrants no interference under the provisions of Section 37(1)(b) of the Act. He submitted that the learned District Judge has taken into consideration the entire material placed on record, and this Court ought not to interfere with the said judgment. It is further contended by learned counsel for the respondents that once the contract stands terminated, proceedings initiated under Section 9 are not maintainable and the remedy of the appellant lies somewhere else. He further submitted that, in terms of the agreement, the appellant has already invoked the provisions of the Arbitration Act by filing a petition under Section 11 before this Court for the appointment of an arbitrator.

23. I have heard learned counsel for the parties and have also gone through the record carefully.

24. In the present case, admittedly, on the basis of the DNIT issued by the respondent for tendering tank trucks of different capacities, the Letter of Acceptance was issued to the appellant on 25.02.2025 and accordingly the Road Transport Agreement was executed inter se the parties as Annexure A-3/A.

25. As observed above, the case projected by the respondent is that a complaint was received at the HPCL office via email on 14.04.2025, alleging that the tank trucks of the appellant bearing registration numbers HP12P3129, HP12P3429, HP12P4029, HR68BO129, HR68-BO429, HR68B1929, HP12Q6129 and

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HR68B2229 were not ready-built with bottom loading prior to the due date of the tender, and that these tank trucks were converted to bottom loading thereafter. Pursuant thereto, an inspection of the aforesaid tank trucks was carried out in the presence of the representative of the appellant and a copy of the inspection report so prepared has been placed on record. As per the report, it was revealed that tank trucks bearing numbers HP12P3129, HR68B2229 and HR68B1929 were not physically ready bottom loading as on the date of the fabrication certificates dated 05.11.2024, 05.11.2024 and 06.11.2024, respectively and before the due date of the tender, i.e., 08.11.2024.

26. As per the report, false certificates dated 05.11.2024, 05.11.2024 and 06.11.2024 were issued by the fabricator, as the tank trucks were not physically fitted with bottom loading on the dates of the fabrication certificates, since the serial numbers of the bottom loading fittings installed on these tank trucks were supplied by the authorized distributor to the fabricator on or after 02.12.2024, 02.12.2024 and 26.12.2024, respectively, which is subsequent to the dates of the fabrication certificates and also subsequent to the due date of the tender. As per the report, fake or false Part-B of Form-7 certificates dated 05.11.2024, 05.11.2024, and 06.11.2024 were issued by the competent person under the Petroleum Rules, 2002, as the tank trucks

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were not physically fitted with bottom loading on the dates of the certificates.

27. The said show-cause notice was duly replied to by the appellant. Initially, vide Annexure A-5, a request was made for the supply of documents prior to submitting a reply. To the said communication, the respondent replied vide communication dated 26.07.2025. Again, vide Annexure A-5/B, the appellant made a request for the supply of documents before submitting its reply and finally, vide Annexure A-6 dated 02.09.2025, a reply to the show-cause notice dated 08.07.2025 was submitted.

28. The respondent, in its second show-cause notice dated 24.10.2025, called upon the appellant to respond to the irregularities observed in respect of tank truck number HP12Q6129. As per the notice, during a random inspection of tank truck number HP12Q6129, it was observed that lock number HE-7150 was suspected of tampering, and upon obtaining a testing report, lock number HE-7150 was declared to have been tampered with. Therefore, the said truck was suspended with effect from 14.10.2025 for indulging in serious malpractices in violation of the transport contract and the Industry Transport Discipline Guidelines. To the said show-cause notice, the appellant responded vide Annexure A-7/A. Thereafter, upon examining the reply filed by the appellant, the respondent terminated the agreement vide order dated 05.03.2026, further blacklisting the fleet of

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the appellant and forfeiting the security deposit. In the termination order, which is comprehensive and exhaustive, it was found that, as per the inspection report, tank truck numbers HP12P3129, HR68B2229, and HR68B1929 were not ready as bottom loading tank trucks on the due date of the tender. Upon consideration of the reply, it was observed that no alteration in a licensed vehicle or its safety fittings shall be carried out without the prior written sanction of the licensing authority, and such alterations or sanctions must be endorsed on the licence by way of an endorsement.

29. As per the findings, it was admitted by the appellant that replacement of bottom-loading kits was carried out owing to malfunctioning, which mandatorily required a corresponding PESO endorsement that had not been complied with in the present case. Therefore, it was found that the tank trucks were not physically compliant bottom-loading vehicles, and no fabrication certificate from a PESO-approved fabricator was provided for the replacement of the bottom-loading kits for the aforementioned tank trucks.

30. It was also noted that, as per the report received, tank truck number HP-12Q-6129 was suspended with effect from 14.10.2025, as lock number HE-7150 of the said vehicle was sent for testing through panchnama and was found to have been tampered with. Finding the illegalities and irregularities to be grave in nature, the respondent issued the termination order dated 05.03.2026, whereby

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the Road Transport Agreement dated 26.03.2025 was terminated, the entire fleet was blacklisted with effect from 08.07.2025, and the security deposit of Rs. 8,00,000/- was forfeited. As per the findings of the learned District Judge, the agreement was held to be determinable in nature, and the relief sought in Section 9 petition was found, in substance, to be in the nature of a mandatory injunction; further, since the termination order had already taken effect, the petition under Section 9 of the Arbitration and Conciliation Act was dismissed.

31. The relevant provision of the Road Transport Agreement executed inter se the parties on 26.03.2025 categorically stipulates that the agreement is valid for a period of five years with effect from 26.03.2025 up to 31.12.2029. Under the agreement, the company reserves the right to terminate the agreement by giving two months' advance notice without assigning any reason, and the contractor is not entitled to claim any compensation from the Corporation upon such termination.

32. Clause 21 of the agreement dated 26.03.2025 reads as follows:

> *"21. Neither party to this Agreement shall be liable for the non-performance of any of its obligations under this Agreement so far as such non-performance is occasioned by conditions of the force majeure. The Force Majeure means natural calamities like floods, earthquake and other acts of God and riots, etc.*
>
> *The affected party shall give the notice of occurrence of any such calamities within a period of 24 hours of occurrence of*

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such calamities. The performance of the respective obligations of the parties under this Agreement shall be resumed as soon such calamities, which have resulted in the non-performance cease to occur.

This Agreement is valid for a period upto 31.12.2029 w.e.f 26.03.2025. However, Company reserves the right to terminate this Agreement by giving two months advance notice without assigning any reasons and contractor is not entitled to claim any compensation from the Corporation upon such termination."

33. To the similar effect, Clause 22 of the agreement, for ready reference, is reproduced as follows:

"22. Notwithstanding anything to the contrary contained hereinabove, Company reserves the right to terminate this Agreement forthwith upon or at any time after happening of any of the following -

(a) If the Carrier, its' proprietor or any partner is adjudicated insolvent or become bankrupt or goes into liquidation whether voluntary or otherwise.

(b) If attachment in execution of a decree is passed against the Carrier, its proprietor or any of its' partners.

(c) If road permits or statutory licenses / permissions granted to Carrier / it's Tank Trucks by transport or any statutory authorities is cancelled or revoked.

(d) If any of the information submitted by the Carrier in the tender is found incorrect at any time.

(e) Breach of any of the terms or conditions of this Agreement by the Carrier.

(f) If the Carrier commits or suffers to be committed any act which in the opinion of the Company whose decision shall be final, is prejudicial to the good name / image of the Company or its' products or its services.

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(g) If the Carrier causes disruption in transportation of bulk petroleum products. The decision of Company will be final and binding on the Carrier.

34. As per Clause 27 of the agreement, in case of any dispute or difference of whatsoever nature, arising out of or in connection with the agreement or its termination, the same shall be referred to and resolved by a Sole Arbitrator in accordance with the Arbitration and Conciliation Act, 1996.

35. Clause 8 of the Oil Industry Transport Discipline Guidelines deals with adulteration, malpractices, irregularities, and penalties.

36. Clause 8.2.1 deals with malpractices and irregularities in the following manner:

"L. Tampering with standard fittings of TT including the sealing, security locks, security locking system, calibration, Vehicle Mounted Unit, or its fittings/fixtures.

O. Entering into contract based on forged documents/false information.

V Any act of the carrier/carrier's representative that may be harmful to the good name/image of the Oil Company, its' products, or its services."

8.2.2 Penalties upon detection of malpractice/ irregularities

The carrier shall attract penalties for the malpractice/irregularities as given below and the TT mentioned in the following instances shall be suspended/blacklisted along with TT crew. However, an investigation, wherever required, shall be conducted and if the malpractice/ irregularity is established then penal actions stipulated as under shall be taken, including blacklisting

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8.2.2.13	*(a) Tampering with standard fittings of TT including sealing, security locks, security locking system and calibration.* *(b) Established case of manipulation / tampering with TT Loading System / automation equipment at loading locations of Oil Marketing Company by TT crew.*	*TT & TT Crew shall be blacklisted*
8.2.2.15	*Unauthorized use of TT outside the contract.* *(a) Entering into contract based on forged documents / false information* *(b) Submission of forged documents during the contract period.*	*Entire fleet along with carrier to be blacklisted, SD to be forfeited, and the transportation contract to be terminated* *Concerned TT shall be blacklisted*
8.2.2.18	*Any act of the carrier/ carrier's representative that may be harmful to the good name/ image of the Oil Company, its products, or its services.*	*As decided by the company*

37. The Oil Industry Transport Discipline Guidelines provide under Clause 8.2.2.13 that in case of tampering with the standard fittings of a tank truck, including sealing, security locks, security locking systems and calibration and in established cases of manipulation or tampering with the tank truck loading system, the tank truck and its crew shall be blacklisted.

38. Under Clause 8.2.2.15, where a party enters into an agreement or contract based on forged documents or false

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information, the entire fleet along with the carrier is liable to be blacklisted, the security deposit forfeited, and the transportation contract terminated.

39. Clause (b) of this provision provides that the submission of false documents during the contract period shall entail blacklisting.

40. Clause 8.2.2.18 provides that in respect of any act of the carrier prejudicial to the good name or image of the oil company, the decision taken by the company shall be final.

41. Under the notarized undertaking/affidavit dated 07.11.2024 submitted by the appellant, the appellant undertook and confirmed that the details furnished were verified and found correct, and that if any information were found to be false or incorrect after the award of the contract, the contract, if awarded/signed with HPCL, would be liable to be cancelled, the security deposit would be forfeited, and the appellant would be liable to pay to the oil company such damages, losses, and claims as the oil company may incur due to termination of the contract.

42. A copy of the undertaking has been placed on record at page 367 of the paper book and the relevant clause thereof reads as follows:

> *"7. We further confirm that the details as furnished by us have been verified and found correct. We undertake to place the Tank Trucks at the disposal of HPC in case the contract is awarded in our favour. If any information is found to be false and incorrect during techno-commercial evaluation, then the*

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> *corresponding trucks shall be liable to be rejected. If any information is found to be false and incorrect after award of contract, the contract if awarded to us/signed contract agreement with HPCL, shall be liable to be cancelled, Security deposit will be forfeited and we shall be liable to pay to the Oil Company such damages/ losses/ claims as the Oil Company may put to due to termination of the contract. We also undertake that should there be any action against Oil Company resulting in damages of whatsoever nature to Oil Company on account of award of contract in our favour on the basis of the misrepresentations, we shall keep the Oil Company completely indemnified against all the claims/ losses/ damages/ litigations/ court action etc."*

43. In the undertaking given by the appellant, it was expressly undertaken that if any information supplied to the respondent was found to be false or incorrect, the award of contract would be liable to be cancelled, the security deposit would be forfeited and the appellant would be liable to indemnify the oil company against such damages, losses and claims as may arise from the termination of the contract.

44. Clause 45 under Instructions to Bidders in the tender reads as follows:

> **"(k)** *If any information provided in the bid is found to be false and incorrect during techno commercial evaluation, then the corresponding trucks shall be liable to be rejected. If any information is found to be false and incorrect after award of contract then the contract shall be liable to be cancelled and EMD/Security deposit will be forfeited.*"

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45. It is contended by learned Senior Counsel for the appellant that the findings as returned by the learned District Judge that the contract *inter se* the parties is determinable is erroneous and beyond the pleadings and relevant provisions of law. He submitted that, in view of the judgment of the Hon'ble Apex Court in ***K.S. Manjunath v. Moora Savirappa, 2025 SCC OnLine SC 2378***, an agreement that is terminable only for cause is not determinable.

46. The precise contention raised by learned Senior Counsel is that, in the facts and circumstances of the case, the contract entered into between the parties is not determinable and the finding to that effect recorded by the learned District Judge is erroneous and unsustainable in law.

47. Section 14 of the Specific Relief Act, 1963, reads as follows:

> "***4. Contracts not specifically enforceable.—***
>
> *(1)The following contracts cannot be specifically enforced, namely:—*
>
> *(a) a contract for the non-performance of which compensation in money is an adequate relief;*
>
> *(b)a contract which runs into such minute or numerous details or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the court cannot enforce specific performance of its material terms;*
>
> *(c) a contract which is in its nature determinable;*
>
> *(d) a contract the performance of which involves the performance of a continuous duty which the court cannot supervise."*

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48. It has been vehemently contended by learned counsel for the respondent that, prima facie and on the face of the record, the contract entered into between the parties is determinable, as its terms and conditions expressly provide that the company reserves the right to terminate the agreement by giving two months' advance notice without assigning any reason, and that the contractor is not entitled to claim any compensation from the Corporation upon such termination.

49. In the case at hand, on the basis of the inspection report, it was found that tank truck numbers HP12P3129, HR68B2229 and HR-68-B-1929 were not physically ready bottom loading as on the date of the fabrication certificates dated 05.11.2024, 05.11.2024 and 06.11.2024, respectively and before the due date of the tender, i.e. 08.11.2024.

50. As per the findings recorded on the strength of the inspection report, false fabrication certificates were issued by the fabricator, as these tank trucks were not physically bottom loading on the date of the fabrication certificates, considering that the serial numbers of the bottom loading fittings installed on these tank trucks were supplied by the authorized distributor to the fabricator on or after 02.12.2024, 02.12.2024 and 26.12.2024, respectively, which is subsequent to the date of the fabrication certificates and after the due date of the tender.

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51. Similarly, tank truck number HP12Q6129 was loaded, and during inspection, lock number HE-7150 was suspected of tampering; upon obtaining a report, the lock was declared to have been tampered with. The respondent has successfully established a prima facie case of serious malpractices in violation of the transport contract and the Industry Transport Discipline Guidelines. Therefore, on the basis of the inspection report and categorical findings, the termination order was passed by the respondent.

52. In order to obtain interim relief under Section 9 of the Arbitration and Conciliation Act, 1996, the appellant is required to establish a prima facie case, balance of convenience, and irreparable loss. The contract, on the face of it, is determinable and the respondent, on the basis of the material placed on record, determined the contract inter se the parties. This Court is in agreement with the findings of the learned District Judge that since the contract stands terminated, the relief sought by the appellant is virtually in the nature of a mandatory injunction, which is impermissible in law. The remedy, if any, available to the appellant lies somewhere else and not in the proceedings under Section 9.

53. Learned senior counsel for the appellant relied upon the judgment of the Hon'ble Apex Court in ***K.S. Manjunath (supra)*** and submitted that an agreement terminable only for cause is not

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determinable within the meaning of the Specific Relief Act. Paragraph 43 of the said judgment reads as follows:

> *"43. Thus, in view of the above discussion, the following principles of law are discernible:*
>
> *(i). Unilateral termination of the agreement to sell by one party is impermissible in law except in cases where the agreement itself is determinable in nature in terms of Section 14 of the Act of 1963;*
>
> *(ii). If such unilateral termination of a non-determinable agreement to sell is permitted as a defence, then virtually every suit for specific performance can be frustrated by the defendant by placing an unfair burden on the plaintiff, who despite performing his part of the obligations and having showcased readiness and willingness, would require to also seek a separate declaration that the termination was bad in law. In such cases, the burden cannot be casted upon the plaintiff to challenge the alleged termination of agreement;*
>
> *(iii). Where a party claims to have valid reasons to terminate or rescind a non-determinable agreement to sell, with a view to err on the side of caution, it should be such terminating party, if at all, who ideally should approach the court and obtain a declaration as to the validity of such termination or rescission, and not the non-terminating party. However, this must not mean that the defendant (the terminating party) in such cases would mandatorily be required to seek a declaration because Sections 27 and 31 of the Act of 1963 respectively, while using the phrase "may sue" merely give an option to any person to have the contract rescinded or adjudged as void or voidable;"*

54. The Hon'ble Apex Court has held that unilateral termination of an agreement is impermissible except where the agreement itself is determinable in terms of Section 14 of the Specific Relief Act, 1963. In the present case, the contract is determinable, as

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observed hereinabove. Therefore, once the respondent established that the contract is determinable, upon its termination and in the facts and circumstances of the case, no interim relief can be granted under Section 9 of the Arbitration and Conciliation Act.

55. Learned Senior Counsel also relied upon the judgment of the Hon'ble Apex Court reported in ***Oryx Fisheries (P) Ltd. Vs. Union of India, (2010) 13 SCC 427*** and submitted that the procedure adopted by the authority in the instant case was neither fair nor open-minded and the impugned action is therefore liable to be quashed.

56. It was further submitted by learned senior counsel that the respondent failed to adhere to the principles of natural justice and in view of the judgment of the Hon'ble Apex Court reported in ***A.K. Kraipak vs. Union of India, AIR 1970 SC 150***, the action taken by the respondent is unwarranted and deserves to be set aside.

57. He further submitted that, in light of the judgment of the Hon'ble Supreme Court reported in ***Mahabir Auto Stores vs. Indian Oil Corporation, (1990) 3 SCC 752***, the State must act fairly and reasonably even in contractual matters. He also placed reliance on the judgment reported in ***HPCL vs. Super Highway Services, (2010) 3 SCC 321*** to contend that termination for alleged irregularities must strictly adhere to prescribed guidelines and fair procedure.

58. In the present case, as observed above, the Road Transport Agreement was executed between the parties on

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26.03.2025. Subsequent to a complaint received by HPCL, an inquiry was conducted by the respondent, culminating in the issuance of a show-cause notice on 08.07.2025. In the said notice, the respondent set out in detail the irregularities and illegalities against the appellant and sought its response.

59. It was the case of the respondent that on the basis of inspection, it was found that the tank trucks were not physically bottom loading on the date of the fabrication certificates, as the serial numbers of the bottom loading fittings installed on the tank trucks were supplied by the authorized distributor to the fabricator on or after 02.12.2024, 02.12.2024 and 26.12.2024, respectively, which is after the date of the fabrication certificates and also after the due date of the tender. As per the respondent, fake/false certificates dated 05.11.2024, 05.11.2024 and 06.11.2024 were issued by the competent person under the Petroleum Rules, 2002, as these vehicles were not physically bottom loaded on the date of issuance of certificates.

60. In response to the show-cause notice, the appellant initially requested the supply of documents vide Annexure A-5 and again requested for supply of documents vide Annexure A-5B. The reply to the show-cause notice was submitted vide Annexure A-6. Similarly, with respect to the second show-cause notice dated 24.10.2025, wherein it was found that lock number HE-7150 was

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tampered with, amounting to serious malpractice, the appellant submitted its reply vide Annexure A-7A dated 03.11.2025.

61. After considering the show-cause notices and the replies submitted thereto and also considering the entire material on record the respondent passed the termination order dated 05.03.2026.

62. As observed earlier, the contract is determinable on the face of the record and the principles of natural justice and fairness have been taken into account by the respondent while passing the impugned termination order. A show-cause notice was issued well in time, a reply was sought from the appellant and the impugned termination order was passed after affording an opportunity of hearing. Therefore, it cannot be said that the appellant was condemned unheard or that the respondent failed to adopt a fair procedure.

63. Learned counsel for the respondent relied upon the judgment of Hon'ble Delhi High Court dated 20.03.2026 in ***Residency Resorts Private Limited vs. United Service Institution of India***, relevant paragraph whereof reads as follows

> *"21. Applying the said dictum and the provisions of Sections 14(d) & 41(e) of the Specific Relief Act, to the facts of this case, does not entitle the Petitioner herein to claim any injunction in view of the fact that the Agreement entered into between the Petitioner and the Respondent is purely a commercial contract which specifically provides that it would expire at the end of five years terms unless mutually extended. In the opinion of this Court, the Agreement entered into between the Petitioner and the Respondent can neither be specifically enforced after the expiry of the pre- determined period nor can an injunction be*

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granted if one of the parties decides not to extend the term of the Agreement. Even under Section 9 of the Arbitration Act, courts ordinarily do not grant injunctions enforcing determinable contracts unless exceptional equities exist. This Court is not satisfied that the Petitioner has established a prima facie enforceable right to the continuation of the Agreement, nor that denial of relief would render arbitration nugatory."

64. As held in the said judgments, under Section 9 of the Arbitration and Conciliation Act, courts ordinarily do not grant injunctions enforcing determinable contracts unless exceptional equities exist.

65. To the similar extent, the Hon'ble Delhi High Court, in ***Yash Deep Builders v. Sushil Kumar Singh and others*** decided on 14.03.2023, held as follows:

"64. Thus, in terms of Section 14(d) of the Specific Relief Act, 1963, no injunction can be granted to prevent breach of the contract, the performance of which cannot enforced. As noted above, the respondent No.1 has already terminated the Collaboration Agreement vide its notice dated 29th September, 2021, which is not questioned by the petitioner, hence, the remaining relief which may be sought by the petitioner is to seek damages, if any. Thus, where the petitioner is statutorily barred from seeking specific performance of the Collaboration Agreement, the petitioner cannot be held entitled to claim interim relief under Section 9 of the Act. In this regard, reference is made to the case of ***Bharat Catering Corporation V. India Railway Catering & Tourism Corporation*** *& Ors.**;** **2009 SCC OnLine Del 3434,** this Court has held that the scope of Section 9 does not envisage the restoration of the contract which stands terminated.*

65. If the petitioner is aggrieved by the letter of termination of the contract and is advised to challenge the

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> *validity thereof the petitioner can always invoke the arbitration clause to claim damages, if any, suffered by the petitioner. It is not open to this Court to restore the contract under Section 9 which is meant only for the sole purpose of preserving and maintaining the property in dispute and cannot be used to enforce the specific performance of a contract."*

66. As held in the aforesaid judgment, once the agreement stands terminated, the petitioner in the said case was statutorily barred from seeking specific performance of the contract and cannot claim interim relief under Section 9 of the Act. It was observed that the scope of Section 9 does not envisage the restoration of a terminated contract. Section 9 is intended solely to preserve and protect the subject matter of the dispute and cannot be invoked to grant specific performance indirectly.

67. The appellant has failed to make out a prima facie case in its favour. After the termination of the contract, the remedy of damages or compensation is available to the present appellant in some other proceedings and a terminated agreement cannot be revived or restored in proceedings under Section 9 of the Arbitration and Conciliation Act. The relief sought by the appellant is primarily in the form of a mandatory injunction and this Court cannot grant such relief in the given facts and circumstances.

68. As rightly argued by learned counsel for the respondent, the contract relates to the transportation of petroleum products and the safety of said goods is of prime importance and no leniency can be

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shown to the defaulting party. The power of Section 9 is exercised to preserve the property, but it cannot be invoked to restore the terminated contract, as the appellant has tried to do so in the case at hand. Once parties entered into contract with open eyes, invoking Section 9 of the Act to obtain final relief in these proceedings is not permissible. As held earlier, the contract inter se the parties is a determinable commercial contract and this Court cannot be converted to enforce the said contract on one pretext or the other. In case the relief as sought by the appellant is granted, in that event, certainly it is the respondent who shall suffer huge and irreparable loss which cannot be compensated in terms of monetary gains.

69. This Court is of the considered opinion that the findings recorded in the impugned judgment by the learned District Judge do not suffer from any infirmity, illegality or perversity warranting interference by this Court. Consequently, the present appeal, being devoid of merit, is dismissed along with pending application(s), if any.

(Romesh Verma)
Judge

6th November, 2026
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