

4 Execution(Comm.) 254/22

M/S STANDARD NIWAR MILLS Vs. UNION OF INDIA

26.02.2026 (At 10:39 AM)

Present : Sh. B.S. Mathur, Ld. Counsel for the Award Holder.
Sh. Ajay Kumar, New Counsel for the Award Debtor
department (ADs)
Sh. Uttam Kumar, Under Secretary, Ministry of
Commerce (AD-1)
Sh. Mukesh Kumar, Senior Accounts Officer, CCA
and Sh. Raman Sehgal AAO, CCA office. (AD-2)

1. The new BTF has been filed by Sh. Ajay Kumar. But this BTF does not show as to which particular department has appoint him as new counsel. Mr. Ajay Kumar submits that it is not so mentioned by the Government department in the BT Form. I do not find any logic or legality in this submission. Be it BT form or vakalatnama, it is the duty of counsel to show that which particular client has appointed him as counsel and law could not be different for government department. By next date a clear cut mandate in accordance with law be placed on record by the counsel to represent any particular department.
2. An application has been filed on behalf of JD no.1 and JD no.2 (AD no.1 and AD no.2) seeking recall/waiver of cost imposed vide order dated 14.01.2026. It is mentioned in the application that AD no.1 and AD no.2 were never active participant of the indent made between the three parties. The erstwhile DGS&D had been closed w.e.f. 31.10.2017 as per Cabinet decision. As approved by Cabinet, all work

of this entity stood transferred to the concerned lined ministry i.e. Ministry of Railway, in this case. Thereafter several other contentions have been made about some communication made to RPF and about the directions given by this court on 01.11.2025 being directed for official of RPF and about impleadment of the concerned department, resulting into non compliance. Ld. counsel for JDs (Ads) as well as Mr. Uttam Kumar both made submissions on the same lines as per plea taken in this application.

3. My attention was also taken to order dated 14.05.2025 to submit that court had given directions for impleadment of RPF. Copy of this application was not supplied to counsel for Award Holder in advance.
4. One affidavit is also filed by Mr. Uttam Kumar in response to show cause notice issued by this court vide order dated 14.01.2026, wherein also similar contentions have been raised. Copy of that affidavit was also not supplied in advance to counsel for Award Holder. This is the conduct of AD no.1 and AD no.2 department and their representatives, after so much observations made by this court in the order dated 14.01.2026. It is also worth to mention that after 14.01.2026, this case was fixed for hearing on 05.02.2026, but some how myself being on leave, on that date hearing was not conducted. However, as per order dated 14.01.2026, all such application and affidavit had to be filed latest by 05.02.2026 that too after supplying advance copy of the same to the opposite counsel (as per requirement of law in Commercial Court Act).

5. One after another plea is being made before the court referring to cabinet decision, the practice prevalent in the Government Department etc. and time and again I had been inviting the submissions on the lines of law. Therefore, I am compelled to make any observation here that any Government Department should refer to the law, rather than their own internal mechanism or their internal decision. Their internal mechanism or decision can be relied upon or referred only by referring to relevant basis of law, which makes such internal decision or procedure, relevant for a court of law. Otherwise the court of law is not supposed to be guided by the internal mechanism or mode of working of any Government Department. Unfortunately the Commercial Courts Act was enacted on certain objectives of the Government i.e. 'Ease of Doing Business' and most unfortunately, it is the department/ministry of Government, which is not giving due respect and effect to the mandate of law enacted with such objective.
6. Ld. counsel for ADs seeks time of two weeks to submit the calculations. Once again, I am at pain to hear such submissions on behalf of Government Department. Because of omissions on the part of AD no.1 and AD no.2, this court had to issue show cause notice to head of department of both the department/ministries vide order dated 14.01.2026. But there is still no change in so called working pattern of the Government Department/ADs, to go slow to comply with the direction, which was given way back on 01.11.2025. All the onus is being shifted upon the 3rd entity

which is RPF & which is not present before the court. In my opinion, AD no.1 and AD no.2 cannot take support of absence of the aforesaid third entity RPF, in order to ignore directions given by the court to them and this is the reasons that this court has insisted for the ld. counsel to file clear cut mandate to show which particular department is being represented by him and which government department has assigned this case to him. A kind of hide and seek game is being played by ADs, wherein on one date one official from Railway appeared and then disappeared. The counsel had been the same in the past. Different persons/officers used to appear and make irrelevant contentions. Therefore, AD no.1 and AD no.2 cannot be absolved of their liability to waste the precious time of the court as well as to delay these proceedings and for such reasons, I do not find any good reason to waive the cost imposed vide order dated 14.01.2026. Rather the fresh submissions made today to seek two weeks time to file calculation-affidavit, gives me another reason to impose further cost upon the AD no.1 and AD no.2. But, I am desisting from doing so.

7. As far as, response to show cause notice is concerned, Mr. Mathur seeks time to go through the same and to come up with his clear cut stand in writing. This affidavit is filed so as to seek this matter being directed against the third entity RPF, rather than AD no.1 and AD no.2. The legality of such stand and merits of such stand, both have to be assessed by the court.

8. On the next date submission shall be heard on this affidavit of Mr. Uttam Kumar and needless to say that AD no.1 and AD no.2 are still under directions to file affidavit and to show calculations and descriptions of all the payments made so far against award in question. Their internal communication with 3rd entity i.e. RPF cannot have any bearing as far as this court is concerned, because they are still shown to be ADs. Though the cabinet decision is shown to have been taken in the year 2017, but this award was passed on 06.03.2020. Admittedly both these ADs (AD no.1 and AD no.2) had not taken any legal step to get this award set aside qua them, on the basis of plea taken in affidavit.
9. Copy of this order be given dasti to Mr. Uttam Kumar and he is directed to place the order before the head of Department i.e. Secretary, Ministry of Commerce and another copy be given to Mr. Mukesh Kumar, who shall ensure to place it before the head of the department i.e. Chief Controller of Accountant, for due compliance.
10. Cost has been tendered by way of cheque to Mr. Mathur.
11. Put up on 13.04.2026.

Pulastya Pramachala
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
26.02.2026