

In The Commercial Court (District Judge Level) ,
Bhopal (M.P.)

(Presiding Officer :- Ajay Pendam)

Registration No.-	MJC AV 30/2025
Filing No.-	MJC AV 1594/2025
CNR No.-	MP0401-008976-2025
Filing Date-	28.02.2025

Viva Highways Ltd.
A company registered under the
Companies Act, 1956 having its registered
office at Ashoka House, Ashoka Marg
Wadala Nasik (Maharashtra)- 422011
Through its Authorised Signatory
Shri Sanjay Karanjikar

---- APPLICANT / PETITIONER

VERSUS

1. Madhya Pradesh Road Development Corporation Ltd.
Through Managing Director
45-A, Arera Hills Bhopal (M.P.)
2. National Highway Authority of India
Through its Project Director, PIU-15 Sampat Hills,
Opp. Sahara City Indore Dewas Bypass
Bicholi Mardana, Indore (M.P)

----- NON-APPLICANTS / RESPONDENTS

: PRESENT :

PETITIONER ADVOCATE : *SHRI PARESH S JOSHI*

RESPONDENT NO.1 ADVOCATE : *SHRI KUSHAGRA SINGH*

RESPONDENT NO.2 ADVOCATE : *SHRI PRANJAL PANDEY*

Ajay Pendam
Judge, Commercial Court,
District judge level
BHOPAL(M.P.)

ORDER

(Passed on 14th August 2026)

01. The present petition has been filed by the Petitioner under Section 29A of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as “the Act”) seeking an extension of the mandate of the Arbitral Tribunal in Case No. 01/2022 by a period of six (6) months i.e upto 31.08.2025.

02. It is undisputed that the aforesaid application was dismissed by the learned Presiding Officer then in charge vide order dated 14.07.2025. Aggrieved by the said order, the Applicant challenged the same before the Hon’ble High Court of Madhya Pradesh in M.C.C. No. 2699/2025. Vide order dated 02.12.2025, the Hon’ble High Court passed an interim order directing substitution of the learned Arbitrator. Aggrieved by the aforesaid order, the Applicant preferred Special Leave Petition (Civil) No. 38327/2025 before the Hon’ble Supreme Court. The said SLP was allowed vide order dated 06.02.2026, whereby the Hon’ble Supreme Court inter alia, held that “The application which was disposed of by the Commercial Court, Bhopal, in MJC (AV) No. 30/2025 shall stand revived and the said Court is directed to decide the application seeking extension of the mandate of the Arbitrator expeditiously.” In view of the aforesaid order passed by the Hon’ble Supreme Court, MJC (AV) No. 30/2025 stood revived and was restored to its original number for consideration and adjudication in accordance with law.

03. The applicant Viva Highways Ltd., a Special Purpose Vehicle implementing the Indore-Edlabad BOT Road Project, filed an application under Section 29A of the Arbitration and Conciliation Act, 1996. The respondents are Madhya Pradesh Road Development Corporation Limited (MPRDC) and the National Highway Authority of India

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(NHAI). Disputes arose between the parties, leading the Hon'ble High Court to appoint Justice (Rtd.) H.P. Singh as sole arbitrator across early 2022 orders. Arbitration proceedings commenced on September 17, 2022 and pleadings were completed by March 27, 2023. Under statutory guidelines, the original deadline to pass the arbitral award was March 26, 2024. Because the award could not be declared in time, the applicant initially approached the Hon'ble High Court of Madhya Pradesh for an extension. Following a Hon'ble Supreme Court ruling clarifying that extension applications must be filed before the principal Civil Court of Original Jurisdiction, the matter was directed to the Commercial Court, Bhopal. The court extended the mandate up to February 26, 2025. During subsequent hearings, Respondent No. 1 (MPRDC) challenged the arbitrator's jurisdiction under Section 16 and filed a writ petition (Writ Petition No. 40364/2024) before the High Court, obtaining a temporary stay on December 16, 2024.

3.1. The Hon'ble High Court, vide order dated 21.01.2025, lifted the stay operating over the arbitral proceedings and directed the learned Arbitral Tribunal to adjudicate upon the question of jurisdiction as a preliminary issue. Pursuant thereto, the learned Arbitral Tribunal, vide order dated 25.02.2025, held that it had full jurisdiction to proceed with the arbitration. It is submitted that, on account of the period of 36 days during which the proceedings remained stayed pursuant to the order of the Hon'ble High Court, coupled with the procedural steps remaining to be completed, including hearing of final arguments on Issues No. 2 to 10 and filing of written submissions, the arbitral proceedings could not be concluded within the existing period of the mandate, expiring on 26.02.2025. In the aforesaid circumstances, the Applicant seeks a further extension of six months under Section 29A of the Arbitration and Conciliation Act, 1996, so as to enable the

learned Arbitral Tribunal to complete the proceedings and render the final award. Accordingly, it is prayed that the time for making the arbitral award may kindly be extended up to 31.08.2025.

04. The reply filed by Respondent No. 1 (Madhya Pradesh Road Development Corporation Ltd.) opposes Viva Highways Ltd.'s Section 29A application for extending the arbitrator's mandate, urging the court to dismiss it at the outset for lack of sufficient cause. The primary argument is that private arbitration under the Arbitration and Conciliation Act, 1996, is legally invalid because the underlying concession agreement qualifies as a "works contract". Under state law, the dispute falls exclusively under the statutory jurisdiction of the MP Madhyastham Adhikaran Adhiniyam, 1983. Respondent No. 1 points to the High Court judgment in Viva Highways Ltd. v. MPRDC (AIR 2017 MP 10) to establish that the tribunal lacked jurisdiction from the start. Procedurally, Respondent No. 1 highlights that it raised a Section 16 jurisdictional objection early on. Although the arbitrator rejected this objection in an interim award on 25th February 2025, Respondent No. 1 has challenged that order under Section 34 (MJC AV 56/2025), which remains pending before the court. It contends that extending the mandate before resolving the threshold challenge under Section 34 would perpetuate an illegal proceeding. Lastly, Respondent No. 1 attributes the ongoing delays to the applicant's repeated filings in incorrect forums and criticizes the conduct of the proceedings, noting that earlier extensions cannot be granted mechanically. It prays that the court decide the Section 34 petition first and deny any further extension under Section 29A.

05. The Court has carefully considered the rival submissions advanced by the learned counsel for the parties and has perused the material available on record.

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06. The principal objection raised by Respondent No.1 is that the arbitral tribunal lacks jurisdiction to adjudicate the disputes in view of the provisions of the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983, and that the present proceedings under the Arbitration and Conciliation Act, 1996 are without jurisdiction. It is further contended that since the arbitral tribunal has rejected the objection under Section 16 of the Act by order dated 25.02.2025, and the said order has been challenged by Respondent No.1 under Section 34 of the Act, the present application under Section 29A deserves to be kept pending or rejected until the said petition is decided. The aforesaid contention cannot be accepted. The scheme of the Arbitration and Conciliation Act, 1996 clearly indicates that an arbitral tribunal is competent to rule upon its own jurisdiction under Section 16 of the Act. Where such objection is rejected, Section 16(5) mandates that the arbitral tribunal shall continue with the arbitral proceedings and make the arbitral award. Section 16(6) further provides that the aggrieved party may challenge such decision only while assailing the arbitral award under Section 34. Thus, the legislative intent is to avoid interruption of arbitral proceedings on account of interlocutory jurisdictional objections.

07. The Hon'ble Supreme Court also considered the decision in **Indian Farmers Fertilizer Cooperative Limited v. Bhadra Products, (2018) 2 SCC 534**, wherein a decision on limitation was treated as an interim award. The Court clarified that the said decision does not authorise a party to treat every order finally deciding an issue during arbitration as an interim award. Where the issue has been raised specifically as a jurisdictional objection under Section 16, the special statutory mechanism contained in Sections 16(5) and 16(6) governs the matter. Thus, merely because the Arbitral Tribunal has finally decided the jurisdictional objection, the order does not become an interim award capable of an immediate challenge under Section 34. The aforesaid principle has also been reaffirmed by the Hon'ble Supreme Court in **Manash Kamal Bezboruah v. Bokahola Tea Company Private Limited, 2026 INSC 701**. Though the question

before the Hon'ble Supreme Court in that case arose in the context of the supervisory jurisdiction under Article 227 of the Constitution, the Court reiterated the statutory scheme of the Act and the principle of minimal judicial intervention in arbitral proceedings. The Court emphasized that an order rejecting a plea under Section 16 ordinarily ought not to be subjected to interlocutory judicial scrutiny, as the Act itself provides an adequate remedy after the conclusion of the arbitral proceedings. The Hon'ble Supreme Court further reiterated that Section 16 embodies the principle of kompetenz-kompetenz, enabling the Arbitral Tribunal to rule upon its own jurisdiction, while Section 34 provides the statutory mechanism for judicial scrutiny at the post-award stage. Permitting a party to challenge every interlocutory determination of the Tribunal would result in piecemeal interference, delay the arbitral proceedings and defeat the legislative object of expeditious and effective resolution of disputes through arbitration.

08. In the present case, the arbitral tribunal has already rejected the jurisdictional objection under Section 16 and no material has been placed before this Court to show that the said order has either been stayed or set aside by any competent Court. Mere pendency of a petition under Section 34 does not automatically suspend the operation of the tribunal's order nor does it render the arbitral proceedings non est. While considering an application under Section 29A, this Court is not required to examine the correctness or legality of the order passed under Section 16, as that issue falls within the scope of the pending proceedings under Section 34. The jurisdiction exercised under Section 29A is confined to considering whether sufficient cause exists for extension of the mandate of the arbitral tribunal. The record further reveals that the arbitral proceedings remained stayed pursuant to the interim order passed by the Hon'ble High Court for a considerable period and that valuable time was consumed on account of adjudication of the jurisdictional objection. The delay is therefore attributable to judicial proceedings and not to any deliberate inaction or negligence on the part of the learned Arbitrator. It is also evident that final arguments on the remaining

issues and written submissions are yet to be concluded. Consequently, the arbitral proceedings cannot reasonably be completed within the existing period of mandate.

09. In these circumstances, this Court is satisfied that sufficient cause has been made out for extension of the mandate of the learned Sole Arbitrator under Section 29A of the Arbitration and Conciliation Act, 1996. The objections regarding jurisdiction raised by Respondent No.1 are expressly kept open for adjudication in the pending proceedings under Section 34, and nothing stated in this order shall be construed as an expression on the merits of those issues.

10. Accordingly, the application under Section 29A of the Arbitration and Conciliation Act, 1996 is hereby allowed. The mandate of the learned Sole Arbitrator, Hon'ble Justice (Retd.) H.P. Singh, is hereby extended for a further period of six months from the date of this order, to enable the learned Arbitral Tribunal to conclude the arbitral proceedings and pronounce the arbitral award.

11. It is clarified that this order shall not prejudice or otherwise affect the rights, remedies and contentions of either party in the proceedings pending under Section 34 of the Arbitration and Conciliation Act, 1996, which shall be decided independently in accordance with law.

12. With the aforesaid observation, this case is disposed off with no order as to cost. Pending application(s), if any, shall also stand disposed of accordingly.

13. File be consigned to record room after due compliance as per rules.

Dated 14.08.2026

Bhopal M.P

(Ajay Pendam)
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(District judge level)
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