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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION  
COMMERCIAL ARBITRATION APPLICATION (L) NO. 18156 OF 2025**

Piyush Infratech Pvt Ltd and Sharda Infratech JV ...Applicant

***Versus***

Indian Port Rail and Ropeways ...Respondent  
Corporation Limited

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*Khaitan Legal Associates, for the Applicant.*

*None for Respondent.*

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**CORAM : SOMASEKHAR SUNDARESAN, J.**

**DATE : JULY 15, 2025**

**ORDER :**

1. This Application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under an agreement dated January 17, 2018(***“Agreement”***). The arbitration agreement is contained in Clause 20.3 (found at Page 259 of the Application). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. The Applicant has invoked arbitration on April 21, 2025 to which there is a response from the Respondent dated May 15, 2025. The existence of the arbitration agreement is not in dispute. No useful purpose would be served by keeping this matter pending any further on the docket of this Court.

3. It is seen from the record that the primary objection from the Respondent is that the claim sought to be raised in the arbitration stands discharged in view of a No Claim Certificate.

4. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the Supreme Court's decision rendered by a seven-judge Bench in the ***Interplay Judgement***<sup>1</sup> followed by multiple others, including ***SBI General***<sup>2</sup> and ***Patel***<sup>3</sup> that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

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1 *In Re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 - (2024) 6 SCC 1*

2 *SBI General Insurance Co. Ltd. Vs. Krish Spinning - 2024 SCC OnLine SC 1754*

3 *Ajay Madhusudan Patel Vs. Jyotrindra S. Patel - 2024 SCC OnLine SC 2597*

5. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to appoint a nominee arbitrator on behalf of the Respondent.

6. In these circumstances, Justice Avinash Gharote, a former judge of this Court (Email: [[avinashgharote.arb@gmail.com](mailto:avinashgharote.arb@gmail.com)]; and Address: [Plot No.49, Ground Floor, Shreenarayan Complex, Besides Punjab National Bank, Bajaj Nagar, Nagpur 440010]) is hereby nominated as the arbitrator on behalf of the Respondent. The Applicant shall communicate the name of the Applicant's nominee arbitrator to the Respondent and the arbitrator nominated hereby, leaving it to these two arbitrators to select the third arbitrator who shall act as a presiding arbitrator.

7. The Application is ***finally disposed of*** in the aforesaid terms.

8. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

**[ SOMASEKHAR SUNDARESAN, J.]**