

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Arb. Case No.295 of 2025****Date of Decision: 18.09.2026****M/s Him Electrical****....Petitioner****Versus****Deputy Chief Engineer & Another****....Respondents*****Coram******The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice*****Whether approved for reporting?¹**

For the Petitioner : Mr. Sumeet Raj Sharma, Senior Advocate with Mr. Santosh Kumar, Advocate.

For the Respondents : Mr. Sourabh Chand and Ms. Mansi Sharma, Advocates, for Ms. Vandana Misra, Advocate.

G.S. Sandhawalia, Chief Justice (Oral).

The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of an Arbitrator, keeping in view the fact that a notice was sent to the respondents on 30.04.2025 (**Annexure P-2**) for invoking the arbitration clause. This clause pertained to the work titled: 'Supply, Erection, Testing, and Commissioning of 3 Nos. 22/0.4 kV, 250 kVA & 1 No. 22/0.4 kV, 25 kVA Distribution

¹ Whether reporters of Local Papers may be allowed to see the judgment?



Transformers, complete in all respects, including HT Line to NC/PC population of GP Lot Durah Shilli & Neether 1st, 2nd and 3rd stages Nirmand & 4th stage under ED, HPSEBL, Anni”.

2. In the reply filed by the respondents, the only defense taken is that, pursuant to Clause 31.0 of the Letter of Award (**Annexure P-1 colly**), any dispute or difference must first be referred to and settled by the Project Manager. The petitioner has deliberately and consciously bypassed this essential pre-arbitral step, which is a condition precedent for invoking arbitration under the terms of the contract *inter se* the parties.

3. In the replication filed by the petitioner, it was averred that the petitioner had earlier addressed letter dated 05.10.2023 (**Annexure P-5**) not only to the Assistant Engineer, but also to the Senior Executive Engineer and the Superintending Engineer, seeking approval for an extension of time and requesting the final bill. Furthermore, it was averred that the respondents had failed to respond to the said letter dated 05.10.2023, which led to serving of the notice dated 30.04.2025 (**Annexure P-2**) to initiate proceedings for the appointment of an Arbitrator. This assertion has not been controverted by the respondents through any counter-pleadings or subsequent documents.



4. In such circumstances, this Court is of the considered opinion that the matter is likely to be referred to arbitration, keeping in view the fact that the parties had already agreed to settle the dispute through this mode as such.

5. Resultantly, the application is allowed and Mr. Davender Kumar Sharma, former District & Sessions Judge (Mobile No.70183-04417), R/o Village & Post Office Batal, Tehsil Arki, District Solan, Himachal Pradesh is appointed as an Arbitrator, to adjudicate the dispute between the parties. After his disclosure in writing is obtained in terms of Section 11(8) of the Act and only after receipt thereof, his appointment, as an Arbitrator, shall come into force.

6. On his giving consent to arbitrate the dispute between the parties as an Arbitrator, Mr. Davender Kumar Sharma, former District & Sessions Judge, shall enter into reference, and shall pass an award in accordance with law.

7. Copy of this order be furnished to the learned counsel for the parties and also to the learned Arbitrator. The learned Arbitrator, so appointed, shall be entitled to fee as per stipulation contained in 4th Schedule appended to the Arbitration and Conciliation Act, 1996.



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8. Accordingly, the application is disposed of alongwith pending miscellaneous application(s), if any.

(G.S. Sandhawalia)
Chief Justice

18th September, 2026
(Munish Thakur)