

OC-19

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/198/2026

M/S. TRIBENI CONSTRUCTIONS LIMITED
VS
DAMODAR VALLEY CORPORATION

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 13th April, 2026.

Appearance:

Mr. Shuvasish Sengupta, Adv.

Mr. Yash Vardhan Deora, Adv.

Mr. S. Chatterjee, Adv.

...for the petitioner

Mr. Deepan Sarkar, Adv.

Mr. Prasun Mukherjee, Adv.

Mr. Deepak Agarwal, Adv.

...for the respondent

The Court: The petitioner has preferred the present petition under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of a sole Arbitrator to adjudicate the disputes between the parties.

The dispute has arisen between the parties out of the Letter of Award dated 26.07.2022 for construction of an integrated township comprising of residential and non-residential building, including water supply, sanitation, electrification, fire-fighting works, etc. for RTPS Township (Phase - I) in CISF area, RTPS, District - Purulia, West Bengal.

Learned Counsel for the petitioner submits that the said work was originally awarded to M/s. Cognition, however, upon their failure to

complete the project, the contract was subsequently awarded to the petitioner. It is contended that during the execution, the petitioner faced several hindrances and obstacles not attributable to them, coupled with delays in payment on the part of the respondent. It is further submitted that the respondent had granted extension of time without levy of liquidated damages up to 30.11.2025 but no further extension was granted thereafter. It is the case of the petitioner that despite such constraints, the work was substantially completed. However, the respondent by letter dated 05.12.2025 terminated the contract by invoking Clause 24.5 of the GCC (General Conditions of Contract) and also proceeded to invoke the bank guarantee amounting to Rs.2,95,50,000/-.

Aggrieved thereby, the petitioner approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996 in Miscellaneous Arbitration Case No. 59 of 2025 seeking interim relief, which came to be declined by the learned Single Judge by order dated 13.01.2026. The petitioner thereafter preferred an appeal under Section 37 of the Act. By order dated 18.02.2026, the Hon'ble Division Bench was pleased to appoint a Receiver for preparation of inventory and stock of materials lying at the project site.

It is submitted by the respondent that they initiated proceedings for debarment of the petitioner which is presently under challenge before this Court in WPA/2526/2026. He further submits that during the pendency of the said writ petition, a final order of debarment dated 21.02.2026 was issued by them.

In the aforesaid background and due to disputes and differences arising between the parties, the petitioner had invoked Clause 33 of the

GCC for initiating arbitration proceedings by issuing a notice dated 08.02.2026 under Section 21 of the Act. The respondent, by reply dated 05.03.2026, did not agree to the name of the arbitrator proposed by the petitioner and suggested an alternative name, which was not acceptable to the petitioner. Hence, the petitioner has preferred the present petition.

This Court has considered the submissions made and perused the materials placed on record.

Prima facie, it appears that an arbitration agreement exists between the parties and the disputes have arisen thereunder. Both the parties agree to the arbitration Clause 33 of the GCC. The parties do not dispute to the arbitration clause. In proceedings under Section 11 of the Act, the scope of examination is confined to the existence of an arbitration agreement which is admitted by both the parties in the present petition. Accordingly, this Court is satisfied that this case is a fit case for reference to arbitration.

Accordingly, this Court appoints Hon'ble Justice Jayanta Kumar Biswas (Retired), (Mob. No. 9830929733), as the learned sole Arbitrator to adjudicate the disputes between the parties.

The appointment of the learned sole Arbitrator shall be subject to compliance with Section 12 of the Arbitration and Conciliation Act, 1996.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act.

A copy of this order shall be communicated by the petitioner to the learned sole Arbitrator for necessary action.

All questions relating to arbitrability of the disputes, maintainability, admissibility of claims, limitation or any other issue are kept open to be urged before the learned sole Arbitrator.

With the aforesaid directions, the present petition stands disposed of.

(GAURANG KANTH, J.)

R.Bhar