

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

Arb. P. No. 02/2025

M/S JRA INFRASTRUCTURE LTD.

PETITIONER (S)

VERSUS

UNION OF INDIA

RESPONDENT (S)

For Petitioner : Mr. Lekden Thondup Basi, Mr. Shakil Raj Karki and
Ms. Dipsheekha Manger, Advocates.

For Respondent : Ms. Sangita Pradhan, Deputy Solicitor General of
India.

Date: 06/06/2025**CORAM:**

HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE

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J U D G M E N T

Two (2) arbitration petitions were filed before this Court by M/s JRA Infrastructure Ltd.. Arb. P. No. 01 of 2025, being an application under section 9 of the Arbitration and Conciliation Act, 1996 whereas Arb. P. No. 02 of 2025 was filed invoking section 11 of the Arbitration and Conciliation Act, 1996. Both the arbitration petitions (along with one interlocutory application filed by the respondent Union of India) were taken up for consideration on earlier dates. On 23rd April, 2025, an order was passed by this Court in Arb. P. No. 01 of 2025, relevant portion whereof is quoted hereunder: -

"In the meanwhile, there shall be an ad-interim order of injunction against the Executive Engineer, Central Public Works Department, Border Road Project, Division-II, having his/her office at Chungthang, North Sikkim, restraining him/her from taking any coercive steps against the petitioner, without leave of Court."

Thereafter, on 14th May, 2025, this Court passed a judgment and order in I.A. No. 01 of 2025 (Arb. P. No. 01 of 2025), operative portion whereof is reproduced as under: -

"A bare perusal of the order, as quoted above, will reveal that this Court has not enjoined the respondent from proceeding with opening of the tender which was scheduled to be opened on 21st April, 2025. The only order of injunction that was passed against the concerned Executive Engineer was restraining him/her from taking any coercive steps against the petitioner (M/s JRA Infrastructure Ltd.), without leave of Court. In such circumstances, this Court does not find any impediment or embargo or fetter upon the

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respondent (Union of India) from proceeding with the opening of the tender (NIT No. 01/SE/BRPC/EE/BRPD-II/2025-26) which was scheduled to be opened on 21st April, 2025.

With the aforesaid observation, the instant interlocutory application, being I.A. No. 01/2025, stands disposed of."

Affidavits have been completed by the parties and both the matters are now before this Court for final disposal.

It appears that the disputes between the parties are now pending before a Dispute Redressal Committee (DRC), as a precondition to initiation of arbitration, agreed upon by the parties. This is evident from a letter dated 04th April, 2025, issued from the office of the Chief Engineer, Government of India, Central Public Works Department, Indo-Bangladesh Border Zone-II, 1st Floor, Nirman Bhawan, Matigara, Siliguri-734010 (West Bengal). A copy of this letter is annexed as R-12 to the affidavit-in-opposition filed on behalf of Union of India in respect of Arb. P. No. 01 of 2025.

In this context it is required to be observed that there was no justifiable reason for the Chief Engineer's office to refer to several judgments — including judgments of Courts beyond the jurisdiction of this State — merely for the purpose of highlighting the fact that the DRC mechanism has not been exhausted. Rather, a simple and objective letter from the office of the Chief Engineer was desirable. Referring to numerous judgments of various Courts — without discussing the facts of those cases — was, in the opinion of this Court, wholly inappropriate and completely avoidable.

Be that as it may, it transpires during the course of hearing that M/s JRA Infrastructure Ltd. has filed its statement of claims before the Dispute Redressal Committee (DRC), and today is scheduled as the date for holding of its first hearing.

In such circumstances, this Court is of the view that both the arbitration petitions, being the Arb. P. No. 01 of 2025 and Arb. P. No. 02 of 2025, can be disposed of with a direction that until a final decision is reached in the matter by the Dispute Redressal Committee (DRC), the order dated 23rd April, 2025, passed in Arb. P. No. 01 of 2025 read with the observations contained in the judgment

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and order dated 14th May, 2025, passed by this Court in IA No. 01 of 2025 in Arb. P. No. 01 of 2025, shall be binding and continue to govern the parties in the proceedings till the disputes are resolved within the framework of the mechanism agreed upon by the parties.

Both arbitration petitions, being Arb. P. No. 01 of 2025 and Arb. P. No. 02 of 2025, stand disposed of accordingly.

(Biswanath Somadder)
Chief Justice

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