IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Arbitration Case No. 102 of 2026

Date of decision: 09.10.2026

M/s Five Star Builders ...Petitioner

Versus

State of H. P. & Ors.. ...Respondents

Coram

The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.

Whether approved for reporting?

For the Petitioner : Mr. Tarunjeet Singh Bhogal, Advocate.

For the Respondents: Ms. Ayushi Negi, Deputy Advocate General.

G. S. Sandhawalia, Chief Justice (Oral)

The present petition has been filed under Sections 14 and 15 of the Arbitration and Conciliation Act, 1996 (for short '***the Act***') for terminating the mandate of the Arbitrator and for appointment of an independent and impartial Arbitrator.

2. The work in question is the construction of pavement on Shimla Bye Pass Km 0/0 to 1/750 and providing side drains, as per the award letter dated 30.03.1992.

3. It is not disputed that on an earlier occasion, the Superintending Engineer, Arbitration Circle, HPPWD, Solan had entered upon the reference and passed the award on 17.04.2010. The matter was challenged by filing Arbitration Case No. 37 of 2010 by the petitioner, which was decided on 22.04.2021 in favour of the petitioner and the matter was

High Court of H.P.

::: Downloaded on - 03/11/2026 15:40:04 :::CIS

2026:HHC:44760

remanded to the Arbitrator to adjudicate the same afresh on the claims of the contractor as well as on the counter claims by setting aside the award dated 17.04.2010.

4. It is submitted by the learned Counsel for the petitioner that the matter has been lingering unnecessary and the Arbitrator has not taken up the said matter. Secondly, he is an employee of the respondents-State and is also disqualified for adjudication in view of the law laid down by the Apex Court.

5. The stand of the State is that the Arbitrator has not been made a party and the petitioner himself has prolonged the proceedings and the appointment of a new Arbitrator would not be possible, as the same involves legal complications as the work in question was awarded and commenced much prior to the coming into force of the amendments.

6. Keeping in view the fact that once the matter has to be resolved by way of arbitration as agreed between the parties and the earlier Arbitrator has not been taking up the proceedings and the matter has been lingering un-necessarily, the Court is of the considered opinion that the present petition is liable to be allowed.

7. Accordingly, the present petition is allowed and Mr. Rakesh Kumar Dogra, Advocate, Mob. No. 98163-14129, is appointed as Arbitrator to adjudicate the dispute between the parties, after his disclosure in writing is obtained in terms of

High Court of H.P.

::: Downloaded on - 03/11/2026 15:40:04 :::CIS

2026:HHC:44760

Section 11(8) of the Act and only after receipt thereof, his appointment, as an Arbitrator, shall come into force.

8. On his giving consent to arbitrate the dispute between the parties as an Arbitrator, Mr. Rakesh Kumar Dogra, Advocate, shall enter into reference, and shall pass an award in accordance with law.

9. The earlier Arbitrator is directed to send the record to the newly appointed Arbitrator, so that the proceedings can be carried forward from the date, from which the earlier Arbitrator had dealt with it effectively, as the whole purpose is to resolve the dispute at the earliest.

10. It is further directed that the newly appointed Arbitrator after the proceedings are concluded, shall send the record to the Registrar (Judicial) for keeping the same in safe custody, since the challenge is liable to be raised under the provisions of the Arbitration Act to the award in question and it would be in the interest of justice to preserve the record, whereby the Arbitrator as such has been appointed by this Court.

(G. S. Sandhawalia)
Chief Justice

9th October, 2026(sanjeev)

High Court of H.P.

::: Downloaded on - 03/11/2026 15:40:04 :::CIS