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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P. (COMM) 434/2022 & I.A. 17269/2022, I.A. 17270/2022, I.A. 17271/2022

UNION OF INDIA

.....Petitioner

Through: Ms. Monika Arora, CGSC along with
Mr. Subhrodeep Saha and Mr.
Prabhat Kumar, Advocates

versus

MS PNSC INFRASTRUCTURE

.....Respondent

Through: Dr. Amit George, Mr. Rajeev Kumar
and Mr. Bhriagu A. Pamidighantam,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

18.02.2026

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1. The present Petition under Section 34 of the Arbitration and Conciliation Act, 1996 [**"A&C Act"**] has been filed by the Petitioner/Union of India challenging the Arbitral Award dated 20.09.2019 passed by the Ld. Sole Arbitrator [**"Impugned Award"**].

2. The facts, as stated in the Petition, reveal that on 30.09.2011, the Respondent/PNSC Infrastructure Ltd, formerly known as M/s Purnananda, was granted a work order for construction of Central University of Haryana at Village Jant-Pali Mahendegarh, Haryana (construction of hostel building to be used as Administrative building) against the tender amount of Rs.8,87,45,789/- *vide* Agreement No. 28/EE/JCD-II/2011-12 [**"Work Order"**].



3. The Work Order consisted of both civil and electrical works. The stipulated date of commencement of work was 17.10.2011 and the date of completion of work was 16.07.2012. It is stated that there was a delay of around 18 months, and the work was finally completed on 15.01.2014. It is stated that an extension of time was also granted to the Respondent, without any levy of compensation.

4. It is the case of the Petitioner that in the extension of time proforma, the Respondent had given an undertaking that they did not suffer any financial loss due to prolongation of contract and no amount due to extension of time would be claimed. It is stated that payment towards the final bill approximately amounting to Rs.13.58 crores was made to the Respondent.

5. Subsequently, disputes arose between the parties regarding payment of certain amounts. Since the Agreement contained an arbitration clause, the Respondent appointed a Sole Arbitrator, however, the said Sole Arbitrator appointed by the Respondent resigned from the services of the Respondent and, consequently, a new Arbitrator had to be appointed.

6. Thereafter, arbitration proceedings commenced, which culminated into the Impugned Award dated 20.09.2019, whereby certain claims of the Respondent were allowed, while the rest were rejected. Against the Impugned Award dated 20.09.2019, the present Petition came to be filed by the Petitioner, along with applications for condonation of delay in filing and re-filing the Petition.

7. It is the case of the Petitioner that a challenge under Section 34 of the A&C Act against the Impugned Award was first made before the District Court, Saket by filing a petition being OMP (COMM.) 1/2020, in respect of



Claim Nos.6, 10 & 11. It is stated that the said Petition was dismissed as withdrawn on 21.04.2022, with liberty to file a fresh petition as per law.

8. Taking 20.09.2019 as a *terminus a quo* for calculation of limitation, the time to challenge the Impugned Award which is permitted under Section 34(3) of the A&C Act is three months and, therefore, the challenge to the Impugned Award ought to have been made on or before 20.12.2019. However, *proviso* to Section 34(3) of the A&C Act also provides for a grace period of thirty more days within which the Arbitral Award can be challenged, subject to the provision of a reasonable explanation as to what prevented the objector from making the challenge to the Arbitral Award within a period of three months.

9. Material on record further discloses that the Petition filed before the District Court, Saket was dismissed as withdrawn on 21.04.2022. It is also noted that in the application being I.A. No. 17270/2022 filed by the Petitioner seeking condonation of delay in filing the present Petition, it is averred that the present Petition was filed in this Court on 13.05.2022, without any delay.

10. From the above discussion, the short question which arises for consideration before this Court is whether the delay in filing of the present Petition deserves to be condoned or not.

11. Learned Counsel appearing for the Petitioner/Union of India submits that Petitioner was *bona fide*, diligently, yet unknowingly pursuing its remedy before a Court having no jurisdiction, which later had to be withdrawn by seeking liberty to file a fresh Petition as per law.

12. Learned Counsel appearing for the Respondent contends that the Petitioner cannot take the benefit of Section 14 of the Limitation Act, 1963,



to state that it was *bona fide* and diligently pursuing its remedy before a Court having no jurisdiction at all for more than two years. He further points out the contentions in I.A. No. 17270/2022 being the application seeking condonation of delay in the present Petition, wherein the Petitioner claims to have made corrections to the present Petition after withdrawing the petition filed before the District Court, Saket.

13. Learned Counsel for the Respondent draws the attention of this Court to the Log Report submitted by the Registry, particularly to the remark made by the Registry on 17.05.2022, stating that the initial filing by the Petitioner was made under Section 29A of the A&C Act, which is strange as the Impugned Award was duly passed on 20.12.2019.

14. It is further submitted on behalf of the Respondent that even after three months elapsed from the date of initial filing, i.e., on 13.05.2022, defects remained un-rectified by the Petitioner even till 06.08.2022, which is borne out from the Log Report. It is further submitted that initially, no application for condonation of delay was filed by the Petitioner and the same was filed only at the time of re-filing of the Petition, somewhere in October 2022.

15. Heard learned Counsels for the Parties and perused the material on record.

16. This Court is of the considered opinion that the Petitioner cannot take umbrage of Section 14 of the Limitation Act, 1963, to state that it was *bona fide* and diligently pursuing its remedy before a Court having no jurisdiction. It does not lie in the mouth of the Petitioner, who is not an ordinary litigant but the Union of India, to take shelter of such an explanation of having unknowingly pursued a remedy before the court having no jurisdiction for



over two years.

17. This Court has also perused the reasons provided by the Petitioner for the delay in filing of the present Petition. Paragraph No.4 of the said application seeking condonation delay i.e., 17270/2022, reads as under:

“4. That the petition came in defect because of the lack of documents, since the certified copy wasn't available. The department received the certified copy of record on 04/06/2022. Our office received the record only after the reopening of office on 04/07/2022. We made changes to the petition and sent it back to the department for approval. Since the concerned officer i.e., the executive engineer dealing with this case was transferred, the approval got delayed. Moreover, it further got delayed because the department suggested further changes to the petition, which were timely, made and the petition was sent back for the final approval. We received the final signed and stamped petition and filed it. There was delay in refilling of the petition and application for condonation of the same has been filed by the petitioner.”

18. A perusal of the above averment indicates that initially, the Petition as filed was returned under defects by the Registry due to the lack of certified copy of the order passed by the District Court, Saket. It also indicates that changes were made to the Petition upon re-filing and it was sent back to the Petitioner's Department for approval, and only thereafter, the Petition was signed, stamped and filed in this Court. This actually means that a fresh Petition was filed in this Court in place of the one filed in the District Court, Saket.

19. Therefore, it cannot be said that the Petition, as corrected and filed in this Court, was filed within the time stipulated under Section 34(3) of A&C



Act, nor is any reasonable explanation provided by the Petitioner which would persuade this Court into giving the Petitioner the benefit under Section 14 of the Limitation Act, 1963.

20. It is now trite law that the Courts do not have the power to condone the delay in the filing of any petition filed under Section 34(3) of the A&C Act beyond the limitation period. A bare perusal of Section 34(3) of the A&C Act leaves no manner of doubt that the limitation prescribed therein is strict in nature and admits of no elasticity. A challenge under Section 34 of A&C Act is required to be instituted within three months from the date of receipt of the Arbitral Award, with a limited discretion vested in the Court to extend the period by a further thirty days upon sufficient cause being shown, but in no circumstances beyond that statutory outer limit.

21. With the above observations, the Petition is dismissed as not maintainable, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 18, 2026

S. Zakir