



RAJASTHAN HIGH COURT
**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 16033/2024

Hcl Infosystems Limited

----Petitioner

Versus

Jaipur Vidyut Vitran Nigam Limited

----Respondent

Connected With

S.B. Civil Writ Petition No. 7066/2026

Jaipur Vidyut Vitran Nigam Limited

----Petitioner

Versus

Hcl Infosys. Limited

----Respondent

For Petitioner(s) : Mr. Kartik Seth with
Ms. Shilpa Saini

For Respondent(s) : Mr. R. N. Mathur, Sr. Advocate
assisted by
Mr. Shailesh Kapoor
Mr. Arif Jamwal
Mr. Lokesh Kumar Atrey
Mr. Shantanu Gupta
Mr. Rahul Pandit

HON'BLE MR. JUSTICE SAMEER JAIN

Order

29/04/2026

1. In the instant matter, learned counsel for the petitioner submits that the underlying work order *qua* the subject matter tender was awarded in the year 2009.
2. It is next submitted that as per the arbitral clause encapsulated in the tender in question, a three-member Arbitral Tribunal was constituted on 27.09.2019 without intervention of the Court, comprising one member being appointed by the claimant,



one member being appointed by the non-claimant, and a jointly appointed presiding arbitrator.

3. It is further submitted that the first notice was issued on 28.07.2020, and the first arbitration hearing took place on 20.08.2020, wherein under the scheme of the Arbitration and Conciliation Act, 1996, the proceedings were initiated.

4. It is contended that the arbitral fee was fixed on an *ad-hoc* basis at Rs. 2,50,000/- per sitting for each arbitrator, exclusive of other ancillary expenses, rather than adhering to the fee structure prescribed under Schedule IV of the Act of 1996. It is argued that the same is contrary to the dictum encapsulated by the Hon'ble Supreme Court in **Oil and Natural Gas Corporation Ltd. (ONGC) v. Afcons Gunanusa JV, 2022 SCC OnLine SC 1122.**

It is highlighted that the parties have mutually incurred litigation costs to the tune of approximately Rs. 14.5 Crores till date. It is further submitted that an application highlighting the highly-fixed fee was moved in the year 2022, but the same has been kept in abeyance.

5. It is argued that the petitioner has raised a specific plea of biasness, alleging that the arbitrators have lost their independence and impartiality. However, the said plea was not pondered over, merely on a technical ground that it was not raised before the learned Arbitral Tribunal under Sections 12 and 13 of the Act of 1996 and was allegedly lacking in evidence.

6. Learned counsel further contended that multiple extensions qua the said arbitration proceedings have already been granted by the learned Commercial Court. It is pointed out that an earlier extension order dated 17.09.2024, which imposed onerous



conditions, is also under challenge by the claimants and that the said petition is tagged with the present petition.

7. It is next submitted that the impugned extension order dated 24.02.2026 was passed without any sufficient cause in law or fact, and therefore, the frustrated proceedings should be put to halt.

8. *Per contra*, learned Senior Counsel, Shri R.N. Mathur, appearing for the respondents, vehemently opposed the present petition and contentions advanced by the learned counsel for the petitioner. It is clarified that the challenge to the previous extension order was strictly limited to the onerous terms imposed, and not the extension itself. It is submitted that the claimants had already concluded their arguments on 17.06.2025, and the subsequent delay is entirely attributable to the petitioner.

9. It is contended that the arbitration proceedings *inter se* the parties are on the verge of culmination, and no prejudice will be caused if a brief extension of four months is granted.

10. *Qua* the alleged highly-charged fee structure, it is submitted that as per ratio laid down by the Hon'ble Supreme Court in **Afcons Gunanusa JV (supra)**, Schedule IV of the Act of 1996 is not strictly applicable to *ad-hoc* arbitration. It is further submitted that any application *qua* the said fee structure was never pressed by the petitioner, and appropriate fees were voluntarily paid at the regular interval by the petitioner, even after filing the application in the year 2022. It is lastly submitted that the allegations of bias is baseless, and is rather an afterthought, unsupported by any evidences, and deliberately not raised before the appropriate Tribunal.





11. Having heard and considering the rival submissions advanced by the learned counsel, this Court notes that while the life of the impugned extension order is merely four months. i.e., up to 30.09.2026, and that time is the essence of arbitral proceedings, crucial questions pertaining to the applicability of Schedule IV, the independence and impartiality (biasness) of the Arbitral Tribunal, and the legality of passing an extension order under Section 29A of the Act of 1996, during the pendency of such critical applications, are of vital importance, and taking note of the fact that the petitioner is a public sector entity and the unique facts of the case will have writ large ramifications, this Court deems it necessary to hear the matter at length.

12. In light of the aforesaid facts and circumstances of the case, this Court directs the learned Advocate General to assist the Court in the instant matters.

13. Learned counsel for the petitioner is directed to supply a copy of the petition, along with all the relevant documents and a copy of this order, in the office of the learned Advocate General.

14. The Registrar (Judicial) is directed to call the records pertaining to the extensions from the learned Commercial Court, ensuring the same are placed before this Court prior to the next date of hearing.

15. List the present batch of matters for final disposal on 04.05.2026 at the top of the supplementary cause list after reflecting the name of Mr. Sheetanshu Sharma in the cause list, as counsel representing the respondents.

(SAMEER JAIN),J

