

निदेशक (प्रणाली) वि.वि.आ.

आयरी नं. 1644

दिनांक 7/8/23

उप निदेशक (प्रणाली)-I - वि.वि.आ.

Dy. Director (Systems)-I DDA,

आयरी नं. / Dairy No. 350

दिनांक / Date 10/8/2023



दिल्ली विकास प्राधिकरण

DELHI DEVELOPMENT AUTHORITY

ई.एम. सचिवालय

E.M's Secretariat

No. EM 2(3)2023/Hort./04/DDA/383

Dated: 04/8/23

MINUTES OF THE 871st MEETING OF ASB HELD ON 02.08.2023 IN THE CHAMBER OF CE (HQ), DDA

871st Meeting of Arbitration Security Board (ASB) under the chairmanship of CE (HQ), DDA held on **02.08.2023** at **12:00 P.M.** in the chamber of CE (HQ), DDA to deliberate Arbitral award in the matter of **M/s Dharam Vir & Co. v/s D.D.A.** for the following work: -

- N.O. W** : M/o Park plantation truck and other equipments of Hort. Wing under (NZ)
- Sub-head** : Raising and repair of boundary wall along railway line from Block B to E, Ashok Vihar, Phase-I
- Agency** : M/s Dharamvir & Co.
- Agmt. No.** : 43/EE/ND-11/DDA/2010-11

The Agenda note was submitted by the CE(Hort.) through e-office vide file no. HORT/0193/2023/-O/o EE(C)-(HCD V) (Computer No. 65863) dated 24.07.2023.

The meeting was attended by the following officers:-

- | | | |
|-----------------------------|-------------------------|-------------------|
| 1. Shri. Sanjay Kumar Khare | CE(HQ), DDA | Chairman |
| 2. Shri. Ravinder Kumar | CE(Hort.) | Executive Member |
| 3. Shri .Ajay Gupta | Dir. (Finance) | Member |
| 4. Shri Vinod Kumar | Dy. CLA-III | Member |
| 5. Shri R.K .Bhanwaria | Dir. (Works)/Consultant | Member, Secretary |

The case was presented by Sh. Ravinder Kumar, CE(Hort.), DDA.

Brief history of the case is as under:-

This refers to the Award dated 28.11.2016 published by Shri D.V. Raghav, Sole Arbitrator, who was appointed by DDA vide letter No. EM2(7)96/Arbn./Vol. VIII/Pt.11/343 dated 04.03.2015 as Sole Arbitrator to adjudicate upon seven claims including interest and cost of proceedings. Statement of facts was submitted by the claimant and counter statement of facts were also submitted by the Respondents.

As per record, Arbitrator entered into reference on 04.03.2015 and held 13 hearings to adjudicate upon total 07 claims and publish Award on 28.11.2016 awarding an amount of Rs. NIL.

Brief description of claims raised and awarded are as under:-

Claim No.	Particular of claim in brief	Amount of claim raised (in Rs.)	Amount of claim awarded (in Rs.)
1.	Not referred by the competent authority.	--	--
2.	The claimants claim on accounts of damages.	1,53,000.00	NIL
3.	The claimants claim on accounts of forfeiture of earnest money.	15,394.00	NIL
4.	The claimants claim on accounts of forfeiture of Performance Guarante.	34,855.00	NIL
5.	The claimants claim on accounts of cartage of material.	15,000.00	NIL
6.	The claimants claim on accounts of pre-suit pendente lite and future interest @ 15% on all above items.	--	--
7.	The claimants claim on accounts of cost of proceedings.	50,000.00	NIL
	Total	2,68,249.00	NIL

The aforesaid award has been challenged by the Applicant in the Hon'ble Rohini High Court on the pretext of that award published by the DDA's employee Sh. D.V. Raghav, SE Arb. on 28.11.2016 is void ab initio in view of the Arbitration & Conciliation Act, 2015 (Amended) and hence the same is liable to be set aside.

Further, on dated 31.10.2022 Sh. Sunil Chaudhary, ADJ-04, North West, Hon'ble Rohini Courts, Delhi has set aside the award dated 28.11.2016.

LEGAL OPINION:

The matter was fixed on 08.08.2022 on which date final arguments heard and concluded and case adjourned to 05.09.2022, 10.10.2022, 31.10.2022 on which date the order announced thereby allowing the objections of the Petitioner. I have gone through the orders passed by the Court and in view of the amendment and further taking into consideration the Judgement passed by the Hon'ble Supreme Court as relied upon by the Petitioner / objector, I do not think there is any chance in appeal. However, final decision of filing appeal may be taken if so advised by the Higher Authorities in the matter. Bill for professional charges and expenses raises separately. I would further like to inform that I was informed by the Court only on 05.11.2022 that the objections have been allowed and the certified copy was applied same day and time to time dates were given lastly date given was 31.01.2023 and I got the same checked on 03.02.2023 when the copies were delivered to me but showing that the certified copies were ready on 05.01.2023. I am also enclosing herewith copy of the receipt showing the last date given for checking as 31.01.2023. It is for your kind consideration and may be used in case appeal is filed in the matter.

RECOMMENDATIONS OF THE CHIEF ENGINEER (HORT. ZONE):

After careful consideration of the opinion/recommendations of the Panel Lawyer, EE/HCD-5 and SE/HCC-2, the court order dated 31.10.2022 is

recommended not to be challenged in the appropriate Court, as per the Supreme Court Judgement in case of Ellora Paper Mills Limited Vs The State of Madhya Pradesh, Civil Appeal No. 7697 of 2021, decided on 04.01.2022.

RECOMMENDATION OF ASB:

After due discussion and deliberation, all members of the ASB are of the view that the matter doesn't fall under the jurisdiction of ASB.

As per revised delegation of power issued vide no. EM1 (10)2018/Del. of Power/DDA/260 dated 19.01.2019 by CE (HQ), DDA. CE (Hort.) is the Competent Authority in r/o award amount less than Rs. 25 lacs in consultation with CAO/DDA, with due scrutiny by Arbitration Scrutiny Board headed by CE(HQ), DDA.

-sd-
R.K. Bhanwaria
Dir(Works)/Consultant
Member Secretary

-sd-
Vinod Kumar
Dy. CLA-III
Member

-sd-
Ravinder Kumar
CE(Hort.)
Executive Member

-sd-
Sanjay Kumar Khare
CE(HQ)
Chairman

-sd-
Ajay Gupta
Dir (Finance)
Member

Director (Works)/Consultant
Member Secretary

Copy to:-

1. EM/DDA for kind information.
2. All concerned.
3. Director (System) for uploading on DDA website.
4. EE/HCD-V/DDA, Keshopuram Delhi – 110035 for information please.

Director (Works)/Consultant
Member Secretary