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

CNR No. DLHC010441052026

+ O.M.P. (COMM) 438/2026, I.A. 25567/2026, I.A. 25568/2026
I.A. 25569/2026, I.A. 25571/2026 & I.A. 25587/2026
ROAD CONSTRUCTION DEPARTMENT, NATIONAL
HIGHWAYS WING, GOVERNMENT OF BIHAR,

.....Petitioner

Through: Mr. Samir Ali Khan, Mr. Jai
Bansal, Mr. Pranjal Sharma,
Mr. Kashif Ali Khan, Ms.
Namrata Kathuri and Ms.
Rakshita Saxena, Advs.

versus

PATEL ENGINEERING LIMITED UJJAIN ENGICON
INDIA PRIVATE LIMITED (JV),

.....Respondent

Through: Ms. Mani Gupta, Mr. Pranav
Malhorta and Mr. Udroipt
Verma, Advs.

CORAM:

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

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17.09.2026

I.A. 25570/2026 (Delay)

1. The present application has been filed by the Petitioner under Section 34(3) of the Arbitration and Conciliation Act, 1996¹ read with Section 5 of the Limitation Act, 1963, seeking condonation of delay of 178 days in filing the main petition under Section 34 of the Act.

2. The Petitioner seeks to challenge the arbitral award dated

¹ "Act" hereinafter



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19.05.2025 as well as the additional award dated 07.08.2025 passed by the learned Arbitral Tribunal.

3. The Petitioner itself herein states that the limitation for filing the petition under Section 34 is to be reckoned from the date of the additional award dated 07.08.2025.

4. Learned Counsel for the Petitioner submits that, upon receipt of the additional award the matter was examined at various levels within the Road Construction Department, National Highways Wing, Government of Bihar. The file was stated to have moved through the Executive Engineer, Superintending Engineer and Chief Engineer. Thereafter, the Petitioner states that efforts were made to settle the dispute under the *Vivad Se Vishwas Scheme III*.

5. It is further stated that, pursuant to the Ministry of Road Transport and Highways guidelines concerning settlement under the *Vivad Se Vishwas Scheme III*, correspondence was exchanged on 20.02.2026 and 30.03.2026.

6. The Petitioner states that the settlement discussions ultimately did not fructify, whereafter the matter was forwarded to the Law Department for legal opinion and sanction and subsequently to the Standing Counsel for preparation of the present petition.

7. The Petitioner expressly admits in its application that there is a delay of 178 days beyond the statutory period of three months.



8. Learned Counsel for the Respondent strongly opposes the present application and submits that the petition is barred by limitation and that the reasons set out by the Petitioner do not constitute “sufficient cause” within the meaning of the proviso to Section 34(3) of the Act.

9. The question which, therefore arises for consideration is whether the circumstances relied upon by the Petitioner, namely, the internal administrative processing of the matter and the subsequent settlement efforts, constitute sufficient cause so as to permit this Court to entertain the petition beyond the period prescribed under Section 34(3) of the Act.

10. Section 34(3) of the Act provides that an application for setting aside an arbitral award may not be made after three months from the date on which the party making the application received the award or, where a request under Section 33 has been made, from the date on which such request was disposed of. The proviso permits the Court, upon being satisfied that the applicant was prevented by sufficient cause from making the application within the said period, to entertain the application within a further period of thirty days, but not thereafter. Section 34 is reproduced herein:

34. Application for setting aside arbitral award.—(1) *Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).*

(2) *An arbitral award may be set aside by the Court only if—*

(a) *the party making the application ⁵³establishes on the basis of the record of the arbitral tribunal that]—*



- (i) a party was under some incapacity; or
- (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or
- (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
- (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

- (v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or
- (ii) the arbitral award is in conflict with the public policy of India.

⁵⁴[Explanation 1.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of Section 75 or Section 81; or
- (ii) it is in contravention with the fundamental policy of Indian law; or
- (iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]

⁵⁵[(2-A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.]

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that



**request had been disposed of by the arbitral tribunal:
Provided that if the Court is satisfied that the applicant was
prevented by sufficient cause from making the application within
the said period of three months it may entertain the application
within a further period of thirty days, but not thereafter.**

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

⁵⁶[(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.]

⁵⁷[(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.]

11. Although the Court is vested with the power to condone delay under Section 34(3) of the Act, such power cannot be exercised in a routine or liberal manner. A liberal approach towards condonation would defeat the legislative objective underlying the Act, particularly its emphasis on expeditious resolution of arbitral disputes. The law of limitation likewise proceeds on the principle that a party must exercise its right to seek a remedy within the period prescribed by law, thereby ensuring certainty and finality in legal proceedings.

12. The statutory scheme under Section 34(3) is, therefore, required to be construed strictly. The period of three months prescribed therein may be extended by the Court only upon sufficient cause being shown, and then only for a further period of thirty days, but not thereafter. The expression “but not thereafter” places an outer limit on the jurisdiction of the Court to entertain a petition under Section 34.



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13. The Supreme Court in ***Union of India v. Popular Construction Co.²***, ***State of H.P. v. Himachal Techno Engineers,³*** ***P. Radha Bai v. P. Ashok Kumar⁴*** held that the expression “but not thereafter” in the proviso to Section 34(3) amounts to an express exclusion of Section 5 of the Limitation Act. The Court held that permitting an application beyond the extended period would render the statutory expression “but not thereafter” otiose.

14. The principle has continued to be applied by the Supreme Court. ***In National Highway Authority of India v. T. Younis⁵***, the Supreme Court reiterated the mandatory nature of the limitation prescribed under Section 34(3) and held that delay beyond the statutory outer limit cannot be condoned. This decision also clarifies that where a genuine proceeding under Section 33 has been initiated, limitation commences from the disposal of that proceeding; however, once such proceedings stand disposed of, the statutory period under Section 34(3) applies in full.

15. Even in ***Chief Engineer, Employees’ State Insurance Corporation v. Enarch Consultants Pvt. Ltd.⁶***, wherein this Court, while considering the limitation prescribed under Section 34(3), held that once the commencement of limitation is determined, the consequences under Section 34(3) follow inexorably and that the period of three months together with the further period of thirty days

² (2001) 8 SCC 470

³ (2010) 12 SCC 210

⁴ (2019) 13 SCC 445

⁵ 2026 SCC OnLine SC 1060

⁶ 2026:DHC:5562; O.M.P. (COMM) 529/2024



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contemplated by the proviso constitutes the maximum period within which the Court is empowered to entertain a petition under Section 34.

16. In the present case, the Petitioner itself proceeds on the basis that limitation commenced from the Additional Award dated 07.08.2025. Consequently, on the Petitioner's own reckoning, the initial period of three months expired on 07.11.2025 and the maximum further period of thirty days contemplated by the proviso to Section 34(3) expired on 07.12.2025.

17. The administrative movement of the file relied upon by the Petitioner cannot suspend, enlarge or otherwise extend the statutory period prescribed under Section 34(3). The movement of the file through different levels of the Government Department is an internal administrative process of the Petitioner and cannot constitute a circumstance altering the period of limitation prescribed by statute.

18. Equally, even the Petitioner's reliance upon the efforts made for settlement under the *Vivad Se Vishwas Scheme III* was initiated only in February 2026. The Petitioner relies upon the letter dated 20.02.2026, issued pursuant to the Ministry's guidelines dated 13.02.2026, as the commencement of the efforts to settle the dispute. The Respondent was thereafter communicated with in this regard on 30.03.2026.

19. Thus, the settlement efforts relied upon by the Petitioner commenced after 07.12.2025, i.e. after the expiry of not only the initial period of three months but also the further period of thirty days



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within which the Court could, upon sufficient cause being shown, entertain the petition under Section 34(3). The settlement discussions, therefore, cannot explain or account for the Petitioner's failure to institute the petition within the statutory period.

20. Even otherwise, the pendency of settlement discussions, by itself, does not constitute an impediment to filing a petition under Section 34. A party may explore an amicable resolution while simultaneously taking steps to preserve its statutory remedy within the period prescribed by law.

21. In the circumstances, neither the internal administrative processing of the matter nor the settlement efforts undertaken by the Petitioner disclose any circumstance which prevented it from approaching this Court within the statutory period. These circumstances may explain the sequence of events leading to the filing of the petition, but they do not constitute sufficient cause for enlarging the period prescribed under Section 34(3). In view of the above the application is dismissed.

22. The Petitioner has admittedly sought condonation of a delay of 178 days beyond the prescribed period. In view of the statutory scheme and the settled position of law, the Court cannot extend the limitation period beyond the maximum period contemplated under Section 34(3). The Petitioner has consequently failed to establish sufficient cause for condonation of the delay.



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23. Consequently, this petition, having been filed beyond the statutory period prescribed under Section 34(3) of the Act, is also dismissed as barred by limitation.

24. Pending application(s), if any, also stands dismissed.

25. No order as to costs.

OM PRAKASH SHUKLA, J

SEPTEMBER 17, 2026/ss