

ITEM NO.11

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 9404/2020

[Arising out of impugned final judgment and order dated 14-01-2020 in ARBP No. 167/2019 passed by the High Court of Delhi at New Delhi]

RAIL VIKAS NIGAM LIMITED

Petitioner(s)

VERSUS

SMS LTD.

Respondent(s)

(FOR ADMISSION)

WITH

SLP(C) No. 9417/2020 (XIV)

(FOR ADMISSION)

Date : 07-01-2025 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Ranjit Kumar, Sr. Adv.
Mr. Udit Seth, Adv.
Mr. Anil Seth, Adv.
Mr. Ravi Shankar, AOR

For Respondent(s) Mr. Ritin Rai, Sr. Adv.
Mr. Sandeep Devashish Das, AOR
Ms. Kanak Malik, Adv.
Mr. Tejasvi Mahajan, Adv.
Mr. Tanishq Juneja, Adv.
Mr. Ankit Mangla, Adv.

Mr. Krishna Ballabh Thakur, AOR
Mr. Sarojanand Jha, Adv.
Mr. Suraj Malik, Adv.
Ms. Rajreeta Ghosh, Adv.
Mr. Rahul Kumar, Adv.
Ms. Muskan Saxena, Adv.
Ms. Rashmi Kumari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Learned Senior Counsel for the parties have been briefly heard.

2. During the course of hearing, the recent judgment dated 08.11.2024, rendered by the Constitution Bench in C.A.Nos.9486-9487/2019 and connected matters (Central Organisation for Railway Electrification vs. M/s ECI SPIC SMO MCML (JV) A Joint Venture Company), has been referred to *in extenso*, especially para 168 thereof whereunder the law laid down in the cited case has been declared to be applied prospectively to the Arbitrators to be appointed after the date of the judgment.

3. In this regard, it seems to us that (i) in view of the expertise, past experience and the position held by the three Members Tribunal; (ii) the fact that such Tribunal came to be constituted much before the judgment delivered by the Constitution Bench; (iii) the Tribunal can be requested to take assistance of the technical experts; (iv) the question of law raised on behalf of the Railways can be kept open to be determined in a fresh case; and (v) with a suitable modification of the impugned judgment of the High Court.

4. Learned Senior Counsel for the Railways, however, seeks time to assist the Court on merits.

5. Post the matter for hearing on 04.02.2025.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(ANU BHALLA)
COURT MASTER(NSH)