



No. RW/NH-36094/02/2025-S&R(P&B)( comp no 252074)  
Government of India  
Ministry of Road Transport & Highways  
Transport Bhawan, 1, Parliament Street, New Delhi-110001

130.245

Dated: 22<sup>nd</sup> July, 2025

**CIRCULAR**

To,

1. The Chief Secretaries of all State Governments/Union Territories.
2. The Principal Secretaries /Secretaries of all States/UTs Public Works Department dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
3. The Engineers-in-Chief and Chief Engineers of Public Works Departments of States/UTs dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
4. Director General (Border Roads), Seema Sadak Bhawan, Ring Road, New Delhi-110 010
5. All CE-RO/RO, Ministry of Road Transport & Highways

**Subject: Standard Operating Procedure for dealing with matters referred to the Dispute Resolution Board and Arbitration Award/Court cases related to National Highways projects entrusted to State PWDs/RCDs/BRO -reg.**

Sir/Madam,

Ministry of Road Transport & Highways (MoRT&H) is responsible for development & maintenance of National Highways in the country. State PWD/RCD/BRO are executing agency for development & maintenance of NHs entrusted to them. Thereby, any decision on contractual or other matters referred to Litigation/Arbitration or Courts having financial implications should be taken by State PWD/RCD/BRO only with prior approval of MoRT&H.

2) Ministry has issued guidelines vide circular No 130.52 dated 26.07.1993 and 130.53 dated 23.03.1994 for dealing with matters related to disputes raised in contracts, its conciliation, reference to DRBs/Arbitration and dealing with appeals made before Courts. Instances of violation of these guidelines has come to the notice of this Ministry where State PWDs/RCDs/BRO have taken certain decisions at their level on contractual dispute matters including Arbitration Awards for National Highways projects without the concurrence of the Ministry which has resulted into financial implications on Government of India. Such violations are viewed very seriously by the ministry leading to deductions/restriction on agency charges payable to the concerned state government.



3) This Standard Operating Procedure (SOP) is intended to put in place a mechanism for proper handling of litigation and arbitration matters involving NH projects entrusted to State PWDs/RCDs/BRO. The SOP has following two parts:

- a) Standard Operating Procedures (SOP) for handling contractual disputes and Arbitration Cases (Annexure-1)
- b) Standard Operating Procedures (SOP) for handling Court Cases (Annexure-2)

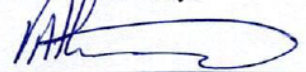
4) Subject to provisions in the respective consultancy agreements, the arbitrations/ court cases with the consultants shall also be dealt with on similar lines as given above.

5) **Review by Regional officer:-** Regional officer will carry out Monthly review of all Mediation by AE/IE, disputes before DRB/AT, conciliation and court case and submit a report to Zonal head, highlighting the critical issues.

6) These guidelines are issued in suppression of all earlier guidelines issued by Ministry circular No 130.17 dated 30.09.83, 130.52 dated 26.07.1993, 130.53 dated 23.03.1994 and circular No CE-RO/LKO/NH-730/UP/2014-15/513 dated 06.02.2025 on the above mentioned subject.

7) This issues with the approval of Competent Authority.

Yours faithfully,



(Akil Ahmad)

**Superintending Engineer(S&R)**  
for DG(RD) & SS

**Copy to:**

1. All ADGs/CEs in the Ministry of Road Transport & Highways
2. All Technical Officers of the Ministry of Road Transport & Highways
3. The Secretary General, Indian Roads Congress
4. The Director, IAHE, NOIDA, Uttar Pradesh
5. Technical circular file of S&R (P&B) Section
6. NIC-for uploading on Ministry's website under "What's New"

**Copy to:**

1. PS to Hon'ble Minister (RT&H)
2. PS to Hon'ble MOS (RT&H)
3. PSO to Secretary (RT&H)
4. PSO to DG (RD) & SS
5. Sr. PPS to AS&FA/ All As/JS



**(Standard Operating Procedures (SOP) for handling Contractual disputes and Arbitration Cases:**

**1. Pre- requisite before invoking arbitration: -**

- a. All the notices/ correspondence/decisions in relation to raising of any dispute and correspondence thereon etc. shall be uploaded mandatorily on Data lake of MoRTH (NHAI) by Contractor/State PWD/RCD/BRO.
- b. It has to be ensured that the requisite process is strictly followed as per respective agreement provisions,
- c. Before recourse to the operation of arbitration, efforts shall be made to resolve the dispute through mediation/conciliation.
- d. The conciliation process can be initiated by either parties at any stage of dispute (before DRB, during DRB, arbitration stage, after declaration of award by AT, AT award is under challenge).
- e. In case if dispute is pending before DRB/AT/Court, if both the parties agree for conciliation, the conciliation process can be started under intimation to DRB/AT/Court.
- f. The conciliation and settlement mechanism shall be as per Ministry's circular No RW/NH-33044/35/2019 dated 18.12.2019.
- g. All the notices/correspondence/ decisions etc shall be uploaded mandatorily on Datalake of MoRTH by contractor/Authority.
- h. All the stages mentioned below may not be applicable for all contracts. The steps to be taken before invoking arbitration are as given below and shall be exercised as per the provisions/applicability in the individual contract agreement:-

**1.1 Notification of dispute: -** In the event of any dispute, difference, or controversy arising under or related to the agreement, the aggrieved party (Contractor/ Authority) shall notify the other party in writing, clearly identifying the "Dispute". Following procedure shall be followed for handling notices/ correspondence at any stage of dispute:-

- i. All notices of disputes shall be sent electronically as well as in physical copy and shall mandatorily be uploaded on MoRTH(NHAI) Datalake portal by the contractor/State PWD/RCD/BRO. Data Lake of MoRTH shall be the common platform for monitoring all disputes between the parties i.e. Contractor and Authority. In case of any notice of dispute, not uploaded on the Datalake, the State PWD/RCD/BRO shall be considered as responsible in case of any future adverse order.
- ii. Concerned Authority i.e. State PWD/RCD/BRO shall examine the submissions and forward its comments/recommendations within 7 days to concerned RO with a copy





to zonal head at MoRTH HQ, failing which if some adverse decision/award issued by DRB/AT/Court, the financial implication of such decisions shall be borne by the State PWD/RCD/BRO. The submission of its examination and recommendation shall also be uploaded on the Data Lake.

### **1.2 Mediation through Authority Engineer/ Independent Engineer: -**

- i) Upon such notification, either party may formally request the **Authority Engineer** to assist in reaching an amicable settlement. The dispute shall be formally submitted to Authority Engineer/ Independent Engineer (a copy uploaded on Data Lake) with a request to resolve the matter. The AE/IE shall make a report after giving an opportunity of hearing to both parties.
- ii) The report of AE shall be uploaded on MoRTH Datalake portal.
- iii) The State PWD/RCD/BRO concerned shall submit a report/ proposal to the Regional Officer Zonal Head at MoRTH HQ within 5 days of report of AE/IE with his recommendations as to whether to accept the findings of the AE/IE along with appropriate supporting justifications. The RO concerned shall also give his independent report along with clear recommendations along with the justification to the Zonal head at MoRTH HQ within 5 days of receipt of recommendations of AE/IE. The Zonal Head at Hqrs shall take decision on the issue within 15 days. The decision taken shall be uploaded on the Data Lake portal.

### **1.3 Reference to Dispute Resolution Board (DRB) (If DRB has been constituted for the Project):-**

- i) If intervention by AE/IE fails or either party is not satisfied with the decision of AE/IE, either party may refer the dispute to the **Dispute Resolution Board (DRB)** as per the procedure specified in the Contract Agreement. Both parties shall provide all the necessary Co-operation promptly. The DRB shall give it decision within 30 days or within such time limits as specified in the agreement, whichever is earlier. In case both parties agree, DRB may be disbanded and matter may proceed to Conciliation.
- ii) The concerned State PWD/RCD/BRO shall submit a report/ proposal to Regional officer of MoRTH within 5 days of receipt of recommendations of DRB with its recommendations as to whether to accept the findings of the DRB with the appropriate supporting justifications. The RO concerned shall give his independent report along with clear recommendations and supporting justification to the Zonal Head at MoRTH HQ within 5 days of receipt of recommendations of DRB. The Zonal Head at MoRTH HQ shall take a decision on the matter within 15 days thereafter or refer it with his/her recommendations to DG(RD)&SS.
- iii) All the Notices/ correspondence and decisions related to DRB shall be uploaded on MoRTH Datalake portal.





- 1.4 Reference to conciliation:** - Before formally making a reference for Arbitration, the parties may resolve to conciliate and settle the dispute through alternate dispute resolution mechanism as per Ministry's circular No RW/NH-33044/35/2019 dated 18.12.2019 (Copy enclosed) and avoid lengthy and costly process of Arbitration.

**2. Nomination of Arbitrators and Constitution of Arbitral Tribunals:**

- 2.1 If the process given in para 1 above or conciliation has been exhausted or failed, either party may invoke the arbitration. State PWD/RCD/BRO shall forward copies of notices of either party invoking arbitration within 5 days to the Zonal head at MoRTH HQ and RO concerned along with the list of claims, copy of arbitration clause in the agreement/ supplementary agreement and status of compliance of pre-requisites before invoking arbitration as explained at Para-1 above, so as to nominate the arbitrator of Ministry well within the time prescribed. RO will examine all the claims raised by the contractor and submit his independent comments along with possibility of further conciliation with contractor to Zonal Head at HQ.
- 2.2 Immediately on receipt of copies of notices invoking arbitration from State PWD/RCD/BRO as at Para-2.1 above, concerned zone at MoRTH, HQ shall process the case and put up to DG (RD) & SS to decide the nominee arbitrator of Ministry and immediately convey it to State PWD/RCD/BRO within the time prescribed.
- 2.3 Some of the existing agreements of Projects may provide for arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration (ICA)/ International Centre for Alternative Dispute Resolution (ICADR) or such other rules as may be mutually agreed by the parties. The efforts shall be made to follow the Institutional Arbitration for timely and affordable dispute resolution. As agreed by both Parties any of the following institution for arbitration may be selected: -
- i) Society for Affordable Redressal of Disputes (SAROD) (Established by NHAI and NHBF),
  - ii) Delhi International Arbitration Centre (DIAC) (Established by Hon'ble Delhi High court)
  - iii) India International Arbitration Centre (IIAC) (Established by Ministry of Law, under IIAC Act 2019).

Therefore, in the existing agreements, where ICA or ICADR rules are prescribed, State PWD/RCD/BRO and RO concerned may explore and sign a Supplementary Agreement with the Concessionaire/contractors to follow any of SAROD/DIAC/IIAC Rules of Arbitration (a copy of draft Supplementary Agreement for SAROD is enclosed at Annexure - 4. The same may be suitably modified for other institutions). State PWD/RCD/BRO shall follow the applicable rules/ procedures of arbitration scrupulously.

- 2.4 The provisions of mode of selection of arbitrator shall be followed for appointment of the Presiding Arbitrator, which may sometimes (where the two arbitrators selected





by the parties fail to agree on the Presiding Arbitrator) require referring the matter to the concerned Arbitration institution e.g. ICA, ICADR, SAROD, DIAC, IIAC, IRC, etc or to the court. RO shall take timely action in this regard in consultation with the Zonal Head at MoRTH HQ.

- 2.5 Each of the nominated/ selected arbitrators is required to give a disclosure in writing to the parties as per sub section (2) of Section-12, in terms of the Fifth & Seventh Schedule of the Arbitration & Conciliation Act, 1996 (A&C Act) and in the form strictly as prescribed in the Sixth Schedule of A&C Act on the existence of circumstances including : (a) such as any relationship with or without interest in any of the parties or in relation to the dispute, which is likely to give rise to justifiable doubts as to his independence or impartiality; and (b) which are likely to affect his ability to devote sufficient time to the arbitration.
- 2.6 Immediately on receipt of such disclosures, the State PWD/RCD/BRO and RO concerned shall examine as to whether such disclosures cover all the grounds given in Fifth & Seventh Schedule of A&C Act and identify the grounds for challenge, if any. If any nominated/ selected arbitrator is found to be ineligible to be appointed as an Arbitrator, RO shall file a written statement of challenge before the Arbitral Tribunal [Refer Section-13(2) of A&C Act] (and before arbitration institution), within the time limits prescribed in A&C Act. The concerned zone at MoRTH HQ shall maintain data on such disclosures, statements filed by the parties and the decisions of AT/AT institution and upload the same on Datalake.

### **3. Expenses and Fees of the Arbitrators:**

- 3.1 In case of Arbitrations under the rules of ICA/ ICADR/ SAROD/DIAC/IIAC, the fees and expenses payable to the Arbitrators, the administrative/ registration fee payable to the institution, etc. shall be as prescribed in the rules of ICA/ ICADR/ SAROD/DIAC/IIAC.
- 3.2 The Arbitration Tribunal shall give its decision within 12 months as per A&C Act 1996. The parties may, by consent, extend the period for making award for a further period not exceeding six months. If the award is not made within the said period, the mandate of the arbitrator(s) shall terminate unless specifically extended with the prior approval of Secretary (RT&H).

### **4. Place of Arbitration and Venue for hearings of AT:**

- 4.1 The place of arbitration shall be as decided in the agreement. The venue for the meetings of AT shall be through Video Conference (VC)/physically as agreed by the Parties. All the meetings shall be attended by EE, PWD either at place of meeting or place of Chairman of Arbitration Tribunal and a summary report of the proceedings uploaded on the Datalake portal.





## **5. Engaging a Law Firm/ Advocate; Techno Legal Expert; Sr. Advocate:**

- 5.1 The Advocate (including Law Firm) for defending Authority before the Arbitral Tribunal shall be appointed at the time of nomination of Arbitrator of Authority, as per the Government of India extant guidelines. For important/ high value cases (where amount of claims is in excess of Rs 100 crores or in BOT Contracts) the private advocate/ Sr Advocate can be appointed from the list of advocates empanelled by NHAI in consultation with NHAI.
- 5.2 The fee of advocates appointed in consultation of NHAI shall be as per the NHAI schedule of fee of Law Firms/Advocates/Sr. Advocate prevailing at that time. For Private Advocates/Sr Advocates, so appointed in consultation with NHAI, the payment shall be made from the contingencies or special sanction sought for the purpose from zonal head at Headquarters.
- 5.3 Considering the requirements of the case, if a Sr. Advocate is required to be engaged to defend the Ministry before the AT, then ASG appointed by Central Govt for concerned High Court shall be requested to attend the case or to nominate any Senior Panel Counsel on his behalf. However, such engagement of Sr. Advocate may be restricted to important stage(s) of arbitration or important hearing(s) of AT.
- 5.4 The Schedule of Fees of other Law Firms/ Advocates/ Techno Legal Experts/ Sr. Advocates (not appointed with consultation with NHAI) shall be as per guidelines of the Ministry of Law & Justice. Deviations in fees for Senior Advocates/ Private advocate may be decided, with prior approval of the competent Authority, at the time of seeking approval for the engagement.

## **6. Submissions before the Arbitral Tribunal on behalf of Authority:**

- 6.1 Executive Engineer of concerned RO/ Executive Engineer of State PWD/BRO of concerned division shall be the authorized representatives of Authority before the Arbitral Tribunal. State PWD/RCD/BRO shall liaise with the appointed Advocate and RO concerned.
- 6.2 The State PWD/RCD/BRO concerned shall submit a brief of the dispute within 15 days of receipt of a notice invoking arbitration of either party on any dispute along with the copies of all correspondence exchanged on the dispute along with a proper index to the RO and Zonal Head, which will be used for briefing purposes.
- 6.3 Within 15 days of receipt of Statement of Claim of the Claimant, the State PWD/RCD/BRO shall furnish preliminary submissions, para-wise replies on the claims and details of counter-claims of Authority to the Advocate engaged by Authority with a copy to the RO & the Zonal Head at HQ.
- 6.4 Within 15 days, the Advocate of Authority shall prepare the draft statement of defense and counter-claims of Authority and submit the same to the concerned RO. Then, within 15 days, the RO & Zonal head at HQ shall review the draft and furnish their comments to the Advocate who in turn shall modify the drafts suitably and submit





final draft within 7 days to the RO. Then, within 5 days, the RO shall take the approval of DG (RD) &SS and State PWD/RCD/BRO shall submit the same before the AT. The monitoring of timelines shall be ensured through Datalake portal.

6.5 In case Authority is the claimant, the process will remain identical as described above with the appropriate changes in the nomenclature. As above, 2 months' time is required to file the submissions of Authority before the AT. However, if AT allows shorter time keeping in view the time limits given in the A&C Act [Refer Section-29(A)], the above timelines may be squeezed suitably and the State PWD/RCD/BRO shall ensure timely submissions before the AT. Seeking extension of time for submissions or adjournment of hearings of AT shall be avoided and if the same are unavoidable, approval of Zonal Head at HQ concerned shall be taken, duly explaining the unavoidable circumstances. Zonal Head concerned at HQ may permit such requests judiciously.

6.6 AT hearings shall be attended by the officers from PWD/BRO/Ministry as under:

Arbitrations where Claim or Counter-Claim Value is	Officer of PWD/BRO/Ministry who has to attend AT hearings besides Advocate/ Techno Legal Expert engaged by Authority
Up to Rs. 50 Crore	Executive Engineer PWD/BRO shall attend all AT hearings.
More than Rs. 50 Crore and up to Rs. 500 Crore	Executive Engineer PWD/BRO and EE/AEE at RO shall attend all AT hearings. DG (RD) &SS/ Zonal Head at HQ will decide, if, concerned RO personally is required to attend any specific hearing(s), on perusal of proceedings of the AT.
More than Rs. 500 Crore	(i) RO/SE at RO Concerned along with SE PWD/BRO shall attend all important AT hearings. (ii) In case the Claim/ Counter Claim Amount is more than Rs. 1,000 crore, Zonal Head at HQ shall attend either personally or through V.C. the important AT hearings, as decided by the DG(RD)&SS on perusal of proceedings of AT.

Notes:-

- Any deviation to the requirements in above table, needs prior approval of DG (RD) &SS.
- The conferences/ briefings of Sr. Advocate (if engaged) shall invariably be attended by the concerned RO/SE/EE of RO office.



- Secretarial support Staff shall be arranged by the State PWD/RCD/BRO to assist in organizing AT hearings at venues.
- The officer attending AT hearing shall submit an AT proceeding report with all relevant details and important observations made by AT during hearing to zonal head on Datalake.

6.7 During the arbitral proceedings, the officers from State PWD/RCD/BRO, as and when required, in consultation with the Advocate, file various applications before AT/ Court to protect the interest of Authority like allowing interim measures, challenging the appointment of arbitrator(s), AT's jurisdiction, limitation, etc.

6.8 For arbitration relating to the disputes arising at site of the projects, State PWD/RCD/BRO and RO shall be solely responsible for bringing all relevant facts and documents, including correctness of calculations in the submissions on behalf of Authority, and for timely submission of all relevant documents from time to time to the RO, as required for the case during the proceedings of AT.

## 7. Examination of award:-

7.1 After receipt of AT Award, State PWD will examine the requirement of corrections and interpretation of award or additional award in consultation with RO, MoRTH and move an appropriate application before the AT within the prescribed limits u/s 33 of Arbitration and Conciliation Act (A&C Act).

7.2 Within 30 days of receipt of AT Award, the State PWD in consultation with Advocate/ Standing Counsel shall give its view in the following format to zonal head at MoRTH HQ:-

Dispute/ Claim Number	Brief Description of claim	Claim Amount without interest	Issues framed by AT under the claim	Finding of AT on issues	Amount Awarded by AT (without interest)	Interest Awarded by AT from- to & Rate)	Views on the (issues	Views on the Amount Award

Note:- In case of dissenting award, the dissenting issues may be highlighted.

7.3 Within 15 days of receipt of AT Award, the RO shall also furnish their independent views on AT Award in the above format, alongwith their recommendations to CE/ADG at HQ duly supported with legal opinion to challenge or accept AT award.

7.4 Within 15 days of receipt of above recommendations of RO, the concerned zone shall submit a proposal to competent Authority by giving its views and clearly stating whether to accept or challenge the AT Award after obtaining concurrence of



finance wing of Ministry. If AT award is to be challenged, RO shall ensure timely filing of an application before court (Refer Section -34(3) of A&C Act). Any delay on part of State PWD/RCD/BRO leading to cost implication shall be borne by the State Government.

- 7.5 In case of acceptance of AT Award by competent Authority in full or in part, the applicable payment shall be released immediately to the Contractor so as to avoid interest on delayed payment given in AT Award.

**8 Competent Authority to accept or challenge the recommendation of Arbitral award:-**

- 8.1 The RO concerned shall examine the AT Award and process the case as per delegation of power. Wherever the matter is to be placed before the higher Authority, the RO concerned shall do so with his recommendations on as to whether the Award should be accepted in full, or part or further contested.

<b>Payable Amount (without interest) involved recommendations/award/ order</b>	<b>Competent Authority to accept or in challenge</b>
Upto 5 crore	Zonal Head at HQ
Above 5 crore but upto 50 crore	DG(RD) & SS on the recommendation of the committee comprising of concerned Zonal ADG/CE and representative of IFD and concerned CE of state PWD/CE (BRO)
Above 50 crores	Secretary (RT&H) on recommendation of the committee comprising of DG(RD)&SS, AS&FA, concerned RO and concerned CE of state PWD/CE (BRO)

- 8.2 While recommending acceptance or challenge of AT Award, the RO/ Committee as above shall consider DOE's 'General Instructions on Procurement and Project Management' issued vide circular No F.1/1/2021-PPD dated 29.10.2021 and 'Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement' issued vide circular F.1/2/2024-PPD dated 03.06.2024 or any amendment or modification of above.

- 8.3 In case the prescribed time limit to challenge any recommendation/award/order, not in favour of Ministry is lapsing, RO concerned shall first instruct State PWD to challenge it and thereafter ratify a decision from Headquarter. If competent Authority decides to accept the recommendations/award/order, the challenge made shall be withdrawn by RO in consultation with the State PWD/RCD/BRO after making as appropriate application before the court.



**Standard Operating Procedures (SOP) for handling Court Cases:****1. Filing an application for setting aside the Arbitral Award in the Court, engaging & briefing Advocate/ Sr. Advocate, attending the hearings in the Court and accepting or challenging the order of the Court:**

- 1.1 Soon after taking decision to challenge AT Award, if time provided is lapsing, the State PWD/RCD/BRO shall approach the advocate, who attended the arbitration on behalf of Ministry or another advocate with approval of RO, to draft the application to be filed before the court having the jurisdiction of the case.
- 1.2 The Advocate shall draft the application, get it vetted by Sr. Advocate (if proposed to be engaged for the case) and furnish to the State PWD/RCD/BRO within 15 days of receipt of reference as at 1.1 above. State PWD/RCD/BRO shall finalize the draft and obtain the approval of DG (RD) &SS at least one week before the prescribed time limits (limitation period). RO concerned shall sign the affidavit/ application and get it filed through the Advocate/ Sr. Advocate in the court within the limitation period.
- 1.3 The case details shall be entered by the RO in the Datalake portal of MoRTH.

**2. Accepting or Challenging the Order of Single Judge before Division Bench of same High Court:**

- 2.1 Within 7 days of receipt of the Order of Single Judge, the PWD/BRO and RO independently shall give their opinion in the following format to the DG(RD)&SS:-

Dispute/ Claim Number	Brief Description of Claim	Claim Amount without interest	Issues framed by AT under this Claim	Findings of AT on Issues	Amount Awarded by AT (without interest)	Interest Awarded by AT (From – To & Rate)	Orders of the Court on Issues	Opinion of Advocate

- 2.2 Within 7 days of receipt of the above, zonal Head shall process the case and either give his decision, if he is competent or obtain decision of the Competent Authority to accept or challenge the order.
- 2.3 In case the prescribed time limit to challenge the order is lapsing and the Competent Authority is not readily available, the RO concerned may direct the State PWD/RCD/BRO to do the needful and get the same ratified from the competent authority later. If the competent authority, however, decides to accept the order, the challenge made may be withdrawn.





3. The procedure as given at Para-2 above shall be followed to challenge the order of Ld. Single Judge before the Division Bench of the same High Court or to challenge the order of Division Bench before the Supreme Court. However, RO shall ensure timely filing of the appeals before the Division Bench or Supreme Court within the limitation period.
4. The limitation period, which starts from the date of receipt of award/ order is as under:
  - (i) The Arbitral Award is to be either accepted or challenged within a period of 90 days before the Court of Law [Refer Section-34(3) of A&C Act].
  - (ii) The order/ judgment of the Single Judge of High Court is to be either complied with or challenged within a period of 30 days before the Division Bench of the same High Court.
  - (iii) The order/ judgment of the Division Bench of the High Court is to be either complied with or challenged before Hon'ble Supreme Court within a period of 90 days.

**5. Attending to the Petitions/ Applications/ Appeals of Contractor/ Concessionaires in the Courts:**

- 6.1 In case the Contractor/ Concessionaire files a petition in the court, the Govt Standing Counsel in that court, after taking the notice/ advance copy of the petition, shall inform RO concerned and seek instructions. RO shall immediately inform the Zonal head/DG (RD) &SS concerned about the petition filed.
- 6.2 The RO shall promptly respond, engage either the Standing Counsel of Govt or the advocate who dealt with the case earlier for the admission/ preliminary hearing, supply all important documents to the advocate and make best efforts to ensure that no interim stay/ restraint order/ relief is granted against Ministry by the court in the admission/ preliminary hearing. Such admission/ preliminary hearings shall invariably be attended by RO.
- 6.3 Thereafter, the case may be defended on behalf of Ministry as per the procedure

**7. Decretal Amounts ordered by the Courts on Execution Petitions:-**

- 7.1 In cases where the Court has decreed the arbitral award amount, although Ministry/State PWD/RCD/BRO has filed an Appeal before a higher court, but interim relief is not granted immediately by the higher court, RO shall take approval of the competent Authority and deposit the decretal amount in the Registry of the Court through the Advocate, with the leave of the Court, subject to the outcome of the pending appeal in the higher court. The details of such decretal amount deposited in the court shall be entered by the RO in the Datalake Portal.
- 7.2 Sometimes, the arbitral awards are partially accepted by Ministry. In such cases also, prompt payments may be made to the extent of partially accepted award and mention the same in the application before the court to prove the bona fides of before the Court. In this case too, details of payment made shall be entered by the RO in the Datalake Portal





**Annexure – 3**

**Schedule of Expenses and Fees payable to the Member(s) of Dispute Review Expert/ Dispute Adjudication Board/ Dispute Review Board**

The amounts payable to the member(s) of Dispute Review Expert (DRE)/ Dispute Adjudication Board (DAB)/ Dispute Review Board (DRB) shall be as under:

Sr. No.	Particulars	Amount Payable
1	Retainer-ship fee, secretarial assistance and incidental Charges (telephone, fax, postage etc.)	Rs. 30,000/- per month for one package and maximum of Rs. 50,000/- per month for 2 or more packages
2(i)	Fee for site visit or meetings at site	Rs. 10,000/- per day
(ii)	Fee for meetings/ hearings not at site	Rs. 7,000/- per day
3	Traveling Expenses	Economy Class by Air, A C First Class by train and A.C Taxi by road
4	Lodging & Boarding	Rs. 15,000/- per day (Metro Cities); or Rs. 8,000/- per day (in other cities); or Rs. 5,000/- per day (own arrangement)
5	Extra charges for days other than hearing/ meeting days (travel days maximum of 2 days on each occasion)	Rs. 5,000/- per day

**Notes:**

(i) Lodging, boarding and traveling expenses will be allowed only for those members who are residing 100 kms away from the place of meeting.

(ii) Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad shall be considered as Metro Cities.

(iii) The above schedule of fee and expenses shall be applicable on or after the date of issue of this Circular.

(iv) The consent of the Contractor may be obtained on the above schedule before releasing the payments to the member(s) as the expenses are to be shared equally by the parties.





**Supplementary Agreement**

This Agreement is entered into on this ..... day of ..... as a Supplement to Agreement dated .....

**Between**

Ministry of Road Transport & Highway, Govt of India hereinafter referred to as "Authority" which expression shall unless repugnant to the context or meaning thereof, includes its administrators, successors and assignees of one part

**And**

M/s. .... registered as a Company under the Companies Act, 1956 having its Head Office at ..... hereinafter referred to as Concessionaire/Contractor which expression shall unless repugnant to the context or meaning thereof, includes its successors and assignees of other part

The Authority and the Contractor are individually referred to as party and collectively as parties.

**WHEREAS**

(a) Parties entered into Concession Agreement/Contract Agreement dated ..... for execution of the work of ..... for a period of ..... years on DBFOT/EPC.

(b) Whereas the Concession/Contract Agreement provides for resolution of dispute under Clause .....

(c) Whereas the Authority and National Highways Builder Federation (NHBF) have formed a Society named "**Society for Affordable Redressal of Disputes**" (SAROD) under Societies Registration Act 1860 with the following objectives:

- (i) Affordable cost
- (ii) Timely resolution of disputes in just and fair manner; and
- (iii) Enrichment of Dispute Resolution Mechanism with association of technical experts.

(d) Whereas the Authority and Concessionaire/Contractor are desirous of availing the services of SAROD for resolution of disputes and have solemnly resolved to refer the existing disputes/future disputes/ongoing disputes with Arbitral Tribunal forthwith, accordingly, the relevant provisions of dispute resolution are proposed to be amended.

**NOW THEREFORE**, the parties have mutually agreed as follows:

1. That the Clause ..... of the Concession Agreement/ Contract Agreement is hereby amended to be read as follows:

"Any dispute/ difference arising out of aforesaid Concession/Contract Agreement which is not resolved amicably as provided in Clause ..... shall be finally settled by Arbitration as set forth below :-





(i) The dispute shall be referred to SAROD for resolution by Arbitration in accordance with Rules of SAROD and Arbitration and Conciliation Act 1996 as amended from time to time (or which is pending with Arbitral Tribunal presided over by ..... shall be referred to SAROD). The Parties shall choose the Arbitrators from the panel of Arbitrators empanelled by the SAROD. The Arbitral Tribunal shall consist of Sole Arbitrator in case total claim of dispute is Rs. 3 Crore or less. In case the disputed claim is more than Rs. 3 Crore, the Tribunal shall consist of odd number of Arbitrators to be nominated by the parties. The Presiding Arbitrator shall be appointed by the Arbitrators nominated by the parties in terms of Rule-11.2 of SAROD. Further, the terms of appointment of Arbitrators shall be governed by Rule-11.3 to Rule-11.5, 12.1, 12.2 and 13 of SAROD.

(ii) The arbitral proceedings shall be held at ..... (State Capital or as per agreement) and the language of arbitral proceedings and that of all correspondence between the parties shall be in English.

(iii) While the curial law of proceedings shall be Rules of the SAROD and various provisions of Arbitration and Conciliation Act 1996, the dispute shall be governed by substantive law of India e.g. The Indian Contract Act 1872 and Arbitration and Conciliation Act 1996, National Highways Act 1956 etc.

(iv) Code of Ethics for Arbitrators shall be governed by Rule-15 of SAROD.

(v) Fee of Arbitrators and expenses incurred in the arbitration proceedings shall be shared by the parties in equal proportion in terms of Rule-15.10 of SAROD.

(vi) All procedural aspects in the arbitration proceedings shall be conducted in terms of the Rules of SAROD.

(vii) The parties shall respect the award in letter and spirit and the award shall be binding upon the parties unless the parties invoke the provision of Section-34 of the Arbitration and Conciliation Act, 1996 for challenging the award.

**IN WITNESSES WHEREOF** the parties have signed this Supplementary Agreement on the date above mentioned in the presence of the Witness.

**For and on behalf of Ministry**  
Signed by

**For and on behalf of Contractor/Concessionaire**  
Signed by

X ——— X ———

15

