

GAHC010237512023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6212/2023

SUMCON INFRAVENTURES LLP
A LIMITED LIABILITY PARTNERSHIP FIRM, HAVING ITS REGISTERED
OFFICE AT ROOM NO. 10P GROUND FLOOR, SARVAMANGALA HOUSE 5.
DR. RAJENDRA PRASAD SARANI, KOLKATA 700001 AND IS REPRESENTED
BY ITS DULY AUTHORISED PARTNER SHRI ANUJ SINGHANIA, S/O RAJ
KUMAR SINGHANIA, AGED ABOUT 30 YEARS, RESIDENT OF PRANTIK
RESIDENCY (FLAT NO. 7D) 157, VINOBA BHAVE ROAD, KOLKATA 700038

VERSUS

UNION OF INDIA AND 9 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF RAILWAYS, NEW DELHI 110001

2:NORTHEAST FRONTIER RAILWAY
REPRESENTED BY ITS GENERAL MANAGER
NF RAILWAY
MALIGAON
GUWAHATI 781011

3:THE CHIEF ENGINEER/CON V
NF RAILWAY
MALIGAON
GUWAHATI 781011

4:THE GENERAL MANAGER
NF RAILWAY
MALIGAON
GUWAHATI 781011

5:THE RAILWAY BOARD
MINISTRY OF RAILWAY

REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

6:THE CHAIRMAN
THE RAILWAY BOARD
MINISTRY OF RAILWAY
REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

7:THE EXECUTIVE DIRECTOR
CIVIL ENGINEERING (G)
THE RAILWAY BOARD
MINISTRY OF RAILWAY
REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

8:RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE
HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
496001
REPRESENTED BY ITS ADDITIONAL GENERAL MANAGER (CIVIL)

9:THE ADDITIONAL GENERAL MANAGER (CIVIL)
RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE
HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
496001

10:THE MANAGER (CIVIL)
RITES LIMITED

HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE
HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
49600

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

18.10.2023

1. Heard Mr. G.N. Sahewalla, learned Senior Counsel for the petitioner, who submits that in terms of the order dated 11.05.2023 passed by this Court in WP(C) No.2168/2023, the blacklisting/debarring of the petitioner from participating in any future tender, pursuant to the impugned letters dated 29.10.2021 and 29.11.2021 had been set aside. However, the same was subject to any final decision to be taken by the Railway Board, in pursuance to the letter dated 17.03.2023 issued by the respondent no.3 and letter dated 13.04.2023 issued by the Railway Board.

2. The learned Senior Counsel submits that as per the letter dated 17.03.2023, which was in response to a clarification sought by the NF Railway, M/s Avijantrik Infratech Private Limited had admitted that the documents used in the tender, on the basis of which the petitioner had been blacklisted from

participating in any future tender, were not connected with the petitioner. The letter dated 13.04.2023 had been issued by the Railway Board, which was addressed to the Chief Administrative Officer (CONS.) North East Frontier Railway, asking him to clarify under what circumstances the NF Railway had taken a decision to re-consider revoking the blacklisting/banning of business against the petitioner. The petitioner's counsel submits that the said letter had been made in pursuance to the letter dated 17.03.2023 issued by the respondent no.3.

3. Subsequent to the two letters mentioned above and the order dated 11.05.2023 passed in WP(C) No.2168/2023, the respondent no.3 has written a letter dated 25.08.2023 (Annexure-XX), which is addressed to the respondent no.7, stating that as per the order passed by this Court on 11.05.2023 in WP(C) No.2168/2023, a recommendation has been made to revoke the banning of business dealings with the petitioner.

4. The learned counsel for the petitioner submits that despite the order dated 11.05.2023 passed by this Court and till a final decision is taken by the Railway Board with regard to whether the petitioner should be blacklisted/debarred from participating in any future tender, the name of the petitioner should be deleted from the Railways Portal and also from the RITES Portal under the heading Banned/Suspended/Negative Vendors.

5. Mr. K. Gogoi, learned CGC appearing on behalf of all the respondents fairly submits that till a decision is taken by the Railway Board in compliance with the order dated 11.05.2023 in WP(C) No.2168/2023, the petitioner's name would

have to be deleted from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors.

6. Mr. K. Gogoi also submits that subsequent to the letter dated 25.08.2023 issued by the respondent no.3, the respondent no.3 had again issued another letter dated 21.09.2023 to the respondent no.7, in the same line as the earlier letter dated 25.08.2023. He submits that the present writ petition can be disposed off, if a direction is issued to the respondent no.7, to take a final decision with regard to whether the petitioner should be banned/blacklisted or suspended from doing any business with the Railway Authorities.

7. I have heard the learned counsels for the parties.

8. The operative portion of the order dated 11.05.2023 passed in WP(C) No.2168/2023 at paragraph-11 and 12 is re-produced here-in-below :

“11. The learned CGC’s prayer that the question of revocation of blacklisting/debarment of the petitioner from participating in any future tender should be left in the hands of the Railway Board is justified. However, they have to take a decision at the earliest and keeping the issue pending is unfair and unreasonable. In view of the judgment of the Apex Court in UMC technologies Private Limited (supra) and the admission by the respondent no.11 in the judgment and order dated 11.04.2023 passed in WP(C) No.7057/2021 to the effect that the respondent no.11 had used forged documents for taking part in the tender process, this Court is of the view that the impugned letters are arbitrary and not sustainable.

12. In view of the reasons stated above, the impugned letters dated 29.10.2021 and 29.11.2021 issued by the respondent no.6, so far as the

petitioner herein is blacklisted/debarred from participating in any future tender,2023:GAU-AS:6916 is hereby set aside. The above is however, subject to any final decision to be taken by the Railway Board in pursuance to the letter dated 17.03.2023 issued by the respondent no.3 and the letter dated 13.04.2023 issued by the Railway Board. While coming to a finding on the issue, the Railway Board may make it's own finding, based on any new facts which has not been considered in this order."

9. A perusal of the extract of the order shows that the blacklisting/debarring the petitioner from doing any business dealings with the respondents, vide letters dated 29.10.2021 and 29.11.2021 have been set aside. As such, it was incumbent on the part of the respondents to have deleted the name of the petitioner from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors, till a final decision was taken by the Railway Board, in pursuance to the letters dated 17.03.2023 and 13.04.2023, which has been mentioned in the preceding paragraphs. Further, as can be seen from the letters dated 25.08.2023 and 21.09.2023 issued by the respondent no.3, the respondent no.7 was to take a final decision.

10. In view of the order dated 11.05.2023 passed in WP(C) No.2168/2023, the respondents are directed to immediately delete the name of the petitioner from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors. The respondent no.7 shall also take a final decision with regard to the issue whether the petitioner is to be blacklisted/debarred from future dealings, by considering the letters dated 17.03.2023, 13.04.2023, 25.08.2023, 21.09.2023 issued by the respondents and any other new materials it may have, inasmuch as, this Court has not given any

view in the order dated 11.05.2023 passed in WP(C) No.2168/2023, with regard to whether the petitioner should or should not be blacklisted/debarred by the Railway Board.

11. The writ petition is accordingly disposed off.

12. The letter dated 21.09.2023 issued by the respondent no.3, which has been submitted by the learned CGC is made a part of the record and marked as Annexure-X.

JUDGE

Comparing Assistant