

Court No. - 40

Case :- WRIT - C No. - 28499 of 2023

Petitioner :- M/S Construction Company And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Mohd. Naushad Ahmad Khan, Diwakar Mishra

Counsel for Respondent :- C.S.C., Abhishek Srivastava, Apurva Hajela, Apoorva Hajela

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioners, Ms. Arti Gupta holding brief of Sri Apoorva Jajela, learned counsel for the respondent No.2 - Bharat Heavy Electricals Limited (BHEL) and Sri Raj Kumar Mishra, learned counsel holding brief of Sri Abhishek Srivastava, learned counsel for the respondent No.3.

2. The present writ petition is preferred for a direction in the nature of mandamus directing and commanding the respondent no.2 to pay the amount of Rs.1,59,50,000/- to the petitioners and to decide their representation dated 06.04.2023.

3. Ms. Arti Gupta, learned brief holder of learned counsel for the respondent No.2, raises an objection by submitting that matter may be adjudicated in Arbitration and an application for the same has already been filed by the contesting respondent under Section 8 of the Arbitration and Conciliation Act on 19.10.2023. She submits that the petitioners have efficacious remedy of arbitration in view of agreement. She has placed reliance upon Clause 2.14 of the Agreement which deals with the arbitration. Photostat copies of Letter of Intent (LOI) and agreement are also brought on record as Annexures-1 and 2 respectively to the said application.

4. Considering the facts and circumstances of the case, as the contesting respondent itself has volunteered for an efficacious remedy and inclined to press the application under Section 8 of the Arbitration and Conciliation Act, 1996, we are not inclined to entertain the writ petition. Needless to say, petitioners are at liberty to invoke the arbitration clause in view of the agreement.

5. With the aforesaid observations, the writ petition is **disposed of**.

Order Date :- 29.11.2023

NLY