



Serial No. 05
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(WPC) No. 133 of 2024
In WP(C) No. 116 of 2024

Date of Decision: 29.07.2024

M/s RKI India Limited,
(formerly known as SR Chaddha Industries
Limited), 147/1030 Civil Lines, Near Circuit
House, Chauraha, Bareilly, Uttar Pradesh,
Represented by its Director Shri. Mohit Chaddha

:::Applicant

-Vs-

- 1.State of Meghalaya
Represented by the Commissioner & Secretary
to the Govt. of Meghalaya, Power Department,
Shillong
- 2.The Chairman cum Managing Director, MePDCL,
Lumjingshai, Shillong
- 3.The Director (Distribution), MePDCL, Meghalaya,
Shillong
- 4.The Chief Engineer (Projects) MePDCL, Meghalaya,
Shillong
- 5.The Superintending Engineer (Projects) MePDCL,
Tura
- 6.The Asian Development Bank, Represented by
its Project Manager

:::Respondents



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Ms. Liz Mathew, Sr. Adv. with
Mr. S. Deb, Adv.

For the Respondent(s) : Mr. A.S. Pandey, Adv.
Mr. A. Kharwanlang, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:

1. This Misc. Application filed by the petitioner in the connected writ petition is with a prayer for staying the encashment of Bank Guarantees No. 30540IGL0000321, 30540IGL0000221 and 30540IGL0000121 with the issuing Bank being the Union Bank of India, UMFB Branch, Bareilly, 87 Civil Lines Uttar Pradesh.

2. The learned Senior counsel on behalf of the applicant submits that in the main writ petition, challenge has been made to the termination of the contract entered into between the respondents and the petitioner, and that pursuant to the termination, the respondents have written to the concerned



banks for encashment of the Bank Guarantees furnished by the Petitioner/Applicant. It is further submitted that a Performance Bank Guarantee No. 00430ILG002720 amounting to Rs. 2,25,00,000/- issued by the Punjab National Bank has already been encashed on 09.07.2024, and that the respondents are now seeking to encash the Mobilization Bank Guarantees amounting to a total of Rs.3,32,30,000/- . She submits that as the matter is fixed to be heard finally on 6th August, 2024, the instant Misc. Application has been filed seeking stay of the encashment until the next date, as encashment of the said Bank Guarantees will severely prejudice the Petitioner/Applicant, as the delay or failure to execute the contract are not solely attributable to the applicant.

3. Mr. A.S. Pandey, learned counsel on behalf of the respondents has submitted that the petitioner itself has admitted to its failings, and that the same is evident by the letter of the petitioner itself dated 04.01.2024, and as such, as per clause – 42.2.2 of the Conditions of Contract, the encashment of the Bank Guarantees is well within the rights of the respondents. He further submits that inspite of several requests being made to the Bank for encashment of the remaining Bank Guarantees, the concerned Bank it appears in collusion with the petitioner is not responding to the requests. He therefore submits that no case has been made out, for stay of the encashment of the Bank Guarantees.



4. Upon hearing the learned counsel for the parties, firstly, it is noted that the main writ petition has been fixed for final disposal on 6th August, 2024, and it is also noted that one Bank Guarantee, wherein the issuing Bank is Punjab National Bank has since been encashed, and the remaining three Bank Guarantees, wherein the issuing Bank is Union Bank of India, UMFB Branch, Bareilly, 87 Civil Lines Uttar Pradesh are yet to be encashed. It is also noted that as per a letter dated 27.06.2024, annexed to the affidavit of the respondents, which has been filed today, the said Union Bank Branch inspite of repeated requests, has not yet revoked the Bank Guarantees.

5. Though, it is incumbent upon the issuing Bank to honour the revocation as per the clauses of the Bank Guarantee, however, as the main writ petition is fixed on 6th August, 2024, without further dwelling on the merits of the matter, is provided that encashment of the above noted Bank Guarantees shall be kept in abeyance until 6th August, 2024, if the same have not already been revoked or encashed.

6. Misc. Case accordingly stands disposed of.

Judge