

GAHC010054662024



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

**Case No. : WP(C)/1632/2024**

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 AUTHORIZED SIGNATORY  
SHRI BRIJESH SAKUNIA, AGE 51 YEARS,  
S/O- MAHAVIR PRASAD SAKUNIA,  
R/O- HANUMAN MANDIR, PADA, JHARSUGUDA, ORISSA,- 768201.

VERSUS

THE UNION OF INDIA AND 3 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,  
MINISTRY OF RAILWAYS,  
NEW DELHI- 110001.

2: RITES LIMITED  
HAVING ITS CORPORATE OFFICE AT SHIKHAR

PLOT NO. 01  
SECTOR-29  
GURUGRAM- 122002

(HARYANA  
INDIA)

REPRESENTED BY ITS GENERAL MANAGER  
CONTRACT POLICY CELL.

3: THE JOINT GENERAL MANAGER (CIVIL)  
RITES LIMITED/ PU

13 KM. MILESTONE  
NH-24  
SITAPUR ROAD

LUCKNOW- 226201  
(NEAR SEWA HOSPITAL)

4:THE REGIONAL HEAD/ ECRPO  
RITES LIMITED  
UNIT NO. 1122-1132  
11TH FLOOR

DLF CYBER CITY  
INFOCITY ROAD

CHANDRAKA INDUSTRIAL  
PATIA

BHUBANESHWAR- 751024

**Advocate for the Petitioner** : MR G N SAHEWALLA

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

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**22.03.2024**

Heard Mr. G.N. Sahewalla, learned Sr. Counsel appearing for the petitioner, who submits that the respondent No.2 had floated 2 NITs being NIT no. RITES/ BBSR/E.CO.RLY/ SARLA SIDING/OT-04/2022-23 dated 06-09-2022 for execution of the work namely "Balance Work of Earthwork in formation, extension of Minor Bridges, Supply of PSC Sleepers, Turnouts Sleepers, Supply of Ballast, P. Way materials and Track Lining Works for Construction of Proposed Sarla-Freight Train Maintenance facilities at Sarla Station Yard (SLRA), Sambalpur Division, East Coast Railway, Odisha" and NIT No. 05/OT/RITES/

RPO/RNC/NCL/00032/NIGHAI/2022 dated 27.09.2022 for execution of the work namely "Earthwork in Formation, P-Way Works, Bridges and other miscellaneous works in connection with P.R. Siding for providing rail connectivity for upcoming CHP & Silo(10 MTPS) at Nigahi Project of NCL, Singrauli, Madhya Pradesh (Package-2)". The petitioner submitted his tender documents in pursuance to the above NITs.

2. The petitioner's grievance is that the petitioner's tender documents had not been considered due to the banning order dated 29.10.2021 issued by the Government of India, Ministry of Railways, Railway Board.

3. The petitioner's counsel submits that though the petitioner, vide letter dated 16.10.2023, had requested the respondent authorities for refund of the petitioner's earnest money deposits, the same has not been returned by the respondent No.6.

4. Mr. H. Gupta, learned counsel appearing for the respondent No.1 submits that the writ petition is not maintainable, as no cause of action has arisen under the jurisdiction of the Guahati High Court. He submits that the NITs were issued in Odisha and Madhya Pradesh. The letter written by the petitioner for refund of the earnest money was also submitted to the Senior DGM (Civil), RITES Limited, Regional Project Office, Ranchi. As such, the petitioner would have to approach the concerned High Court/s where the cause of action had arisen.

5. I have perused the cause title of the writ petition and the same shows that the petitioner is from Kolkata and the authorized signatory is from Odisha. The respondent No.1 is the Union of India represented by the Secretary to the

Government of India, Ministry of Railways, New Delhi. The respondent No.2 is having its office at Gurugram, Haryana, while the respondent No.3 is having its office at Lucknow, U.P. The respondent No.4 is having its office at Bhubaneswar, Odisha. The NITs also pertain to works to be done in Odisha and Madhya Pradesh.

5. In view of the above, this Court finds that as no cause of action has arisen within the jurisdiction of the Gauhati High Court, the petitioner should approach the competent Court having jurisdiction over the area, in which the cause of action arose.

6. In the case of ***Nawal Kishore Sharma Vs. the Union of India and Others***, reported in ***(2014) 9 SCC 329***, the Supreme Court has held that in order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limits of the Court's jurisdiction. In the present case, as the NITs pertain to works to be done in Odisha and Madhya Pradesh and the earnest money having been deposited in those states, besides the concerned respondents being situated outside the State of Assam, the writ petitioner would have to approach the concerned Court within whose jurisdiction the cause of action has arisen.

7. The writ petition is accordingly dismissed as not maintainable.

**JUDGE**

**Comparing Assistant**