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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 603 of 2013**

M/s Monnet Ispat & Energy Limited Having Its Registered Office At Monnet Marg, Mandir Hasaud, Ps Mandir Hasaud, Distt Raipur, Cg. And A Corporate Office At 11, Masjid Moth, Greater Kailash Part-II, Ps C.R. Park, New Delhi, New Delhi, Thorough Its Authorised Signatory Shri B.N.Sinha, S/o Lt Shri S.B.Sinha, Age 56 Yrs, R/o Geetanjali Enclave, Ring Road No.2, Bilaspur, Ps Civil Lilnes, Distt Bilaspur, Cg

---- Appellant**Versus**

South East Central Railway S/o Through Is Chief Commercial Manager, Bilasur, Distt Bilaspur, CG

-----Respondents

For Appellant:	Shri Chetan Sharma, Senior Advocate along with Shri Ashish Shrivastava, Shri Anshuman Mahajan, Shri Rahul Singh and Shri Animesh Verma, Advocates.
For Respondent/Railway:	Shri Abhishek Sinha, Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****28/10/2015**

1. The present appeal arises from order dated 27.11.2013 dismissing Writ Petition (C) No.1721/2013 holding that in view of the arbitration clause provided in the agreement signed between the parties, the Writ Petition was not maintainable.
2. The controversy revolves around a private Railway siding of the Appellant pursuant to a written agreement between the parties. The appeal is being disposed with the consent of the parties at the admission stage itself in light of certain subsequent developments during the pendency of the appeal, because of which the reasons assigned by the Learned Single Judge no more remain relevant.
3. In the nature of the order that we propose to pass, more particularly in

view of the affidavit filed on behalf of the Respondent on 26.10.2015 affirmed by the Deputy Chief Commercial Manager (FS) South Eastern Central Railway, Head Quarters – Bilaspur, it is not considered necessary to deal with the entire facts of the case, except to the extent necessary for purposes of the present order, so as not to prejudice the case of either party.

4. The Appellant was primarily aggrieved by a communication dated 25.10.2013 informing that its private Railway siding had been decided to be taken over and converted into a public goods shed referring to a letter dated 5.6.2013. Reference was further made to another order dated 15.11.2013 bearing No.7613 confirming that it is required to be taken over in the larger interest of the trading public. The Appellant sought to contest the same on various grounds including facts based on documents and correspondences exchanged between the parties.

5. The affidavit of the Deputy Chief Commercial Manager filed on 26.10.2015 states that the Respondent shall consider afresh without acting upon the orders dated 25.10.2013 and 15.11.2013. The affidavit further states that it was being affirmed on basis of information available with the Department and the decision of the competent authority in this regard.

6. Learned Counsel for the Appellant sought to express certain apprehensions in view of some statements made in the affidavit, which it was submitted may be utilized in a manner adverse to the Appellant notwithstanding their offer to consider matters afresh. The apprehensions are belied to our understanding from the affidavit itself for reasons discussed hereinafter.

7. The Respondent-Railways is a Government Department, within the definition of 'State' under Article-12 of the Constitution. Even otherwise, being a Government Department, all its actions including even in commercial matters have to be in accordance with the constitutional mandate under

Article-14 as transparent, fair, reasonable and not arbitrary. If a Government Department, especially in a Court proceeding, professes to act by certain standards mentioned in its affidavit, it shall be bound to act in accordance with those standards without any deviation from the same.

8. Paragraph-5 of the additional affidavit dated 26.10.2015 filed by the Chief Executive Commercial Manager states the Railways have decided to apply their mind “afresh” to the controversy regarding the private Railway siding and will not act under their earlier communications to the Appellant dated 25.10.2013 and 15.11.2013. The Appellant therefore stands relegated to its original position under the agreement between the parties.

9. There shall be a difference where a Court directs the Respondents to consider matters afresh either after a discussion or with any other directions as the case may be and when the Respondents, in a case, voluntarily offer to consider matters afresh without any direction of the Court. In the latter case, it is apparent that the ordinary meaning of the word “afresh” will have to be applied. It means thus “anew”, “with a fresh beginning” as described in the Shorter Oxford English Dictionary. In other words, the matter has to be considered by the Respondents de novo without being prejudiced by their earlier decision. All other issues are therefore clearly premature at this stage.

10. The appeal is therefore disposed in the aforesaid terms.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE