

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.9028/2014

18 WRIT PETITION NO. 9028 OF 2014

M/S. RATNA COMPUTERS, PARBHANI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr.Deshmukh Mahesh S.
AGP for Respondent State: Mrs. A.V.Gondhalekar.

...
CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: June 23, 2015

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PER COURT :-

1. It is not controverted that there are certain disputes between the implementing authority and the operator i.e. the petitioner which has given rise to an action of sealing of all the centers operated by the petitioner.

2. Counsel appearing for the petitioner has invited our attention to Clause 6 of the general conditions of tender contained in Part 5 of the tender document which provides a forum for amicable settlement of the dispute. It is provided under the concerned clause that the implementing Authority and the Operator shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract. If, after thirty days from the commencement of such informal negotiations, the Implementing Authority and the Operator have been unable to resolve amicably a contract dispute, the dispute will be referred for arbitration to the Tendering Authority who shall try to mediate and

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resolve the dispute amicably between the two parties.

3. It has been disclosed that there are disputes between the Implementing Agency and the Operators which remained to be resolved. In this view of the matter, we grant liberty to the petitioner to approach the Tendering Authority i.e. the Collector with a representation / application. If the petitioner tenders a representation / application within a period of one week from today, the Tendering Authority shall, in observance of the procedure contained in clause (6) of Part 5, try to mediate and resolve the dispute amicably between the two parties. The Collector shall take appropriate steps and take a decision within a period of four weeks from the date of receipt of the representation / application. In the event the dispute does not get resolved amicably, it would be open for the parties to resort to the remedy provided under clause (6) i.e. approach to the sole arbitrator i.e. the Divisional Commissioner, Aurangabad.

4. It is clarified that the contentions raised by the present petitioner in the instant petition are kept open and it would be permissible for the petitioner to raise all the contentions before the Collector.

The Collector shall take decision without being prejudiced by the offending action taken against the petitioner.

The Writ Petition stands disposed of accordingly.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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