

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 1013 OF 2015

M/s.Welcome OTC

..... Petitioner

VERSUS

Union of India

..... Respondent

Ms.Astha Tambankar, i/b. Mr.Arvind Dubey for the Petitioner.

Mr.T.J.Pandian for the Respondent.

CORAM : R.D. DHANUKA, J.

DATED : 17th AUGUST, 2015

P.C.

By this petition filed under section 34 of the Arbitration and Conciliation Act, 1996, the petitioner has impugned the arbitral award rendered by the learned arbitrator on 2nd June, 2015 thereby rejecting the claims for specific performance and various other claims made by the petitioner.

2. Learned counsel appearing for the petitioner states that in respect of various other contractors though there were number of defaults committed by them, their contracts were terminated after several defaults committed by them whereas contract awarded to the petitioner has been terminated merely on two defaults committed by them. It is submitted that the petitioner has not been treated equally with the other contractors of the respondent.

3. In my view even if the respondent had terminated the contract awarded to the other contractors after committing more defaults than what has been committed by the petitioner, that cannot be a ground for setting aside the award.

4. A perusal of the award indicates that the learned arbitrator has rendered a finding of fact that in this case overloading was recorded to the extent of 90% to 56% over and above of permissible limits and it was evident that safety had been endangered which could not be compromised in any situation as passengers' lives were at stake. In my view, the findings rendered by the learned arbitrator is after considering the pleadings and documents filed by both parties and the findings being not perverse, this court cannot interfere such finding of facts.

5. Petition is devoid of merits and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]