

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WA.No. 1322 of 2015 ()

AGAINST THE JUDGMENT IN WP(C).NO.17122/2015 DATED 15-06-2015.

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APPELLANT/PETITIONER:

**SOLAR DESIGNS PRIVATE LIMITED,
NO.1, "A" WING, 3RD FLOOR, PARSN, MANERE, 602,
ANNA SALAI, CHENNAI - 600 006, TAMIL NADU,
INDIA, REP. BY ITS MANAGING DIRECTOR
A.A.K. APATH SAKAAYEM, AGED 49 YEARS,
S/O. KRISHNA SWAMY.**

**BY SRI.M.RAMESH CHANDER, SENIOR ADVOCATE.
ADV. SRI.ANEESH JOSEPH.**

RESPONDENTS/RESPONDENTS:

- 1. RAJIV GANDHI CENTER FOR BIO TECHNOLOGY,
(A CENTRE FOR ADVANCED RESEARCH &
TRAINING IN BIOTECHNOLOGY), TRIVANDRUM - 695 001,
REP. BY ITS CHIEF GENERAL MANAGER.**
- 2. UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT
OF BIOTECHNOLOGY, MINISTRY OF SCIENCE AND TECHNOLOGY,
GOVERNMENT OF INDIA, NEW DELHI - 110 001.**

**R1 BY ADV. SRI.V.ABRAHAM MARKOS.
R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.
ADV. SMT.H.SUBHALEKSHMI, CGC.**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No. 1322 of 2015

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Dated this, the 25th day of June, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellant. This appeal has been filed against judgment dated 15th June, 2015 in W.P (C) No. 17122/2015. The appellant had filed the writ petition challenging Ext.P6 order by which the respondent-Rajiv Gandhi Centre for Bio Technology has terminated the contract under Clause 43(iv) and (v) of the conditions of the agreement. The appellant had filed the writ petition challenging the termination of contract.

2. Learned counsel for the appellant submits that the decision of the learned Single Judge that a dispute pertaining to contractual issues cannot be decided in writ proceeding is not correct. He has referred to the judgment of the Apex Court in ***ABL International Ltd. & anr. v. Export Credit Guarantee Corporation of India Ltd. and others*** [(2004) 3 SCC 553], which was cited before the learned Single Judge. Learned Single Judge has referred to several steps which were taken by the

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respondent especially the finding by the respondent that furniture supplied was of inferior quality and was not matching with the specifications and drawings which were approved by the 1st respondent. Learned counsel for the appellant sought to contend that appellant ought to have been appraised about the specifications which he had to comply.

Be that as it may, learned Single Judge has rightly observed that issues of fact regarding execution of contract, especially when the contract has been terminated invoking the clauses in the agreement, could not have been permitted to be raised in a proceeding under Article 226 of the Constitution of India. We do not find any error in the decision taken by the learned Single Judge refusing to exercise discretion under Article 226 to entertain the writ petition. We do not find any merit in the appeal. Appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge