

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4041 of 2015

=====

1. Data Technosys (Engineers) Pvt. Ltd., Asha Apartment (I), 19 Ram Mohan Rai
(Lucknow through its legal representative Sandeep Saxena son of Late K.C. Saxena
resident of C-740, Sector C, Mahanagar Lucknow

.... Petitioner/s

Versus

1. The Union of India through the General Manager East Central Railway Hazipur,
Bihar
2. The General Manager, East Central Railway, Hazipur
3. The Chief Engineer (Construction), East Central Railway, Patna
4. The Deputy Chief Engineer (Construction) East Railway, Patna
5. The Chief Engineer (Construction), Jharkhand East Central Railway,
Mahendrughat, Patna
6. The Chief Administrative Officer (Construction) East Central Railway,
Mahendru Ghat, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Respondent/s : Mr. Anil Kumar Sinha

Mr. Abhimanyu Deo

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 09-12-2016

Heard Mr. Mishra for the petitioner and Mr. Anil Kumar Sinha
for the East Central Railways (for short “ECR”).

Petitioner was awarded survey work of PET survey for
doubling (3rd line) of Buxar-Ara- Mokama Section. As the petitioner
defaulted in discharge of the responsibility arising out of the contract
entered between them, the respondents rescinded/terminated the
contract on 28.04.2011. Raising a grievance thereagainst, the
petitioner filed a writ petition in this Court which was disposed of
vide order dated 17.02.2014 passed in C.W.J.C. No. 3012 of 2014



(Annexure-37) permitting the petitioner to make a representation which was directed to be considered and disposed of by a speaking order. In consequence thereof, the petitioner made an application which was considered and rejected vide communication dated 28.08.2014 which is enclosed along with Annexure-38.

Diverse submissions have been advanced on behalf of the petitioner to assail the said order. It is submitted that the communication of the Deputy Chief Engineer at Annexure-36 was not taken into account by the respondent ECR while passing the speaking order.

Mr. Anil Kumar Sinha, on the other hand, submits that any difference or dispute arising out of or in connection with the contract can be resolved through the arbitral proceeding as provided in Clauses 63 and 64 of the General Conditions of Contract (GCC).

On a consideration of the submissions, in my view, the ends of justice shall be sub-served if the petitioner is granted a liberty to invoke the relevant clause of the GCC for seeking arbitral resolution of the dispute.

Let the petitioner approach the appropriate authority of the respondent ECR for reference of the matter to the arbitrator. Once such application is filed, the respondent will consider the same and do the needful as required by them as quickly as possible preferably



within 30 days of such presentation/filing.

The writ application is disposed off.

(Kishore Kumar Mandal, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.12.2016
Transmission Date	

