

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20362 of 2013

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M/S Trishul Construction, at and P.O. Balmikingar, District West Champaran (Bettiah) through its partner, Chandra Prakash Gupta, son of Sushil Kumar Gupta, Resident of Mohalla Bank Road, Bagaha Bazar, Police Station Bagaha, District West Champaran.

.... Petitioner/s

Versus

1. The Union of India through Secretary Ministry of Railway, New Delhi.
2. Railway Board through its Chairman, New Delhi
3. Acting Director/Civil Engineering (G) Railway Board, New Delhi
4. Chief Administrative Officer, Construction, East Central Railway, Mahendru Ghat, Patna
5. East Central Railway through its Chief Executive Officer, East Central Railway, Mahendry Ghat, Patna
6. Deputy Chief Engineer, Construction, NIEC Railway Darbhanga
7. Deputy Chief Engineer, E.C. Railway, Raxaul, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent-Union of India : Mr. Anil Kumar Sinha

Mr. Ankit Katriar

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 08-03-2016 Heard Mr. Jitendra Prasad Singh, learned counsel appearing for the petitioner and Mr. Anil Kumar Sinha, learned counsel appearing for the respondent-Union of India in its Ministry of Railways.

The petitioner is aggrieved by the order dated 1.7.2013 issued under the signature of the Acting Director -cum- Civil Engineering (G), Railway Board whereby a decision has been taken not to have business dealings with the petitioner for a period of three years. The detail order so passed finds enclosed at Annexure-14 to the interlocutory application bearing I.A. No.8079 of 2014.

Mr. Singh, learned counsel appearing for the petitioner



has submitted that the dispute pertains to the construction work carried out by the petitioner at Major Bridge No.63, 64 and 65A between Sitamarhi and Narkatiyaganj stations in connection with the gauge conversion work of Jay Nagar, Darbhanga, Narkatiyaganj station. He submits that on the failure of the respondents to make payment that the petitioner came before this Court in CWJC No. 4909 of 2010 and which was disposed of with a liberty to approach the Deputy Chief Engineer/Construction, NIEC Railway, Darbhanga along with his claim and which was rejected vide order dated 10.3.2012 impugned at Annexure-10 to the writ petition. It is the case of the petitioner that being aggrieved he moved before this court again in CWJC No.6463 of 2012 and the bench taking note of the submission of the learned counsel for the Railways that the petitioner has a remedy by way of 'Arbitration' in terms of general conditions of the contract, disposed of the writ petition affording liberty to the petitioner to avail of the remedy in accordance with law. A challenge by the petitioner to the order of the writ Court resulting in Letters Patent Appeal No. 1404 of 2012 was disposed of as withdrawn.

The undisputed present status is that the parties have chosen their respective arbitrators and while the arbitration proceeding as regarding the payment for the work carried out by the petitioner is pending consideration before the Arbitrators that the order impugned has been passed containing a ban of business

dealings with the petitioner for the next three years. The order was passed on 1.7.2013 and the period is to expire within a few months.

Mr. Sinha informs that the arbitration proceedings were initiated in 2014. Now where the matter is pending before the Arbitrators on the issue of payment and which issue takes into fold the quality of work performed by the petitioner, as well taking note of the fact that the 3 year ban period is to expire within a few months, this Court at the present stage would refrain from expressing any opinion for the present and would dispose of the writ petition with an advice to the Arbitrators in seisen of the matter to conclude the proceedings in accordance with law expeditiously and preferably within three months from today.

I would hasten to clarify here that this disposal is not on merits and thus the challenge of the petitioner to the decision of the Railways impugned in the present writ proceedings in so far as it casts a stigma on him, would be open for contest and adjudication in the Arbitration proceedings and the disposal of the writ petition should not have any prejudicial effect on the claim of the petitioner in the Arbitration proceedings which is to be considered and disposed of on its own merits.

(Jyoti Saran, J)

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