

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT APPEAL No.1198 of 2016

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in Writ Petition No. 24422 of 2014 dated 17.3.2015, dismissing the writ petition on the ground that the petitioner has the alternate remedy of invoking the arbitration clause under the agreement and, therefore, the writ jurisdiction of this Court under Article 226 of the Constitution of India should not be permitted to be invoked.

An arbitration clause is contained in Clauses 33.1 and 33.2 of the Notice Inviting Tender which form part of the Standard Bidding Document dated 15.2.2013. The submission of Sri G.L. Narasimha Rao, learned counsel for the appellant, is that no formal contract has been entered into between the appellant and the Government of India; and, consequently, the arbitration clause, contained in the notice inviting tender, has no application.

A letter of intent was issued to the appellant on 24.5.2013 for supply of hiring of skilled/un-skilled workmen valid from 1.6.2013. The other terms and conditions of the letter of intent records that the LOI was to be valid initially for a period of three months from 1st June, 2013; if performance was satisfactory, it would then be extended for a further period of one year, i.e., upto 31st May, 2014; a formal contract/LOI shall only be executed after receipt of the bank guarantee; no payment would be made until and unless a

valid bank guarantee was submitted; until a formal contract/LOI was executed, the letter of intent would continue as a binding contract with the Government of India Mint and the appellant; and all major commercial terms and conditions of tender would be followed and observed in this contract.

Even though no formal contract was executed, the aforesaid terms and conditions stipulate that, until then, the LOI shall continue as a binding contract between the parties. Consequently Clauses 33.1 and 33.2 of the notice inviting tender, referred to herein above, would apply notwithstanding a formal contract not having been entered into.

The order of the learned Single Judge, relegating the petitioner to the remedy of arbitration, does not suffer from any patent error or illegality necessitating interference in proceedings under Clause 15 of the Letters Patent.

The Writ Appeal fails, and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

10th November, 2016

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