

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 9240 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue any appropriate Writ, Order or direction, preferably a Writ in the nature of Mandamus, declaring the proceedings bearing No. 02/122(50)/2016-RM:N dated 31.1.2017 issued by the respondent herein, as being illegal, arbitrary, violative of Article 14 of the Constitution of India as well as being violative of the terms of the Agreement/Contract dated 7.6.2016, especially Clause 3 of the contract, by setting aside the said impugned proceedings, respondent may be directed to the petitioner to execute the work in terms of the contract/agreement date 7.6.2016 and pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. The Regional Manager, TSRTC, Nalgonda, issued show cause notice for termination of licence dated 18.11.2016 alleging certain violations of terms and conditions of agreement dated 7.6.2016 while asking the petitioner to offer explanation for the same. In response to the said show cause notice of termination, the petitioner herein submitted an explanation on 30.11.2016 denying all the allegations while stating that the petitioner is willing to carryout rectifications, if any, and further stating that if any rectifications and replacements are to be attended to, the Society is prepared to do the same.

3. Vide proceedings No. 02/122(50)/2016-RM:N dated 31.1.2017, the Regional Manager, Nalgonda, directed the petitioner to take up 14 works indicated therein, while informing that in the event of failure in completing the same, in terms and conditions of the agreement, action will be taken invoking the terms and conditions of the agreement.

4. According to the learned Senior Counsel, Sri P. Venugopal, representing the counsel for the petitioner on record, the petitioner herein in its explanation dated 30.11.2016, categorically stated that the petitioner herein completed all the works as per the agreement only.

5. During the course of hearing, it is brought to the notice of this Court by the learned Senior Counsel Sri G. Vidya Sagar, representing the TSRTC, that the present Writ Petition is not maintainable and as per the agreement dated 7.6.2016, in the event of there being any dispute, the decision of the Managing Director shall be final and instead of approaching the Managing Director, the Writ Petition is filed under Article 226 of the Constitution of India.

6. In this context, it would be appropriate to refer Condition No. 70 of the said agreement dated 7.6.2016, which reads as follows:

“70. In all disputes in scope of doubts or interpretation of clauses of conditions and applications of this contract or otherwise, the decision of the Managing Director, Telangana State Road Transport Corporation shall be final.”

7. A reading of the above Clause clearly shows that in the event of there being any dispute, the petitioner herein can approach the Managing Director for redressal of its grievance.

8. Since the issue in the present Writ Petition requires ground verification and in view of the above said Clause in the agreement, this Court does not propose to go into the merits of the case.

9. Having heard the learned senior counsel, Sri P. Venugopal, representing the learned counsel appearing for petitioner, and learned Senior Counsel Sri G. Vidya Sagar for TSRTC, this Court is of the considered opinion that the ends of justice would be served, if the petitioner is permitted to submit a representation to the Managing Director for redressal of its grievance, in accordance with Clause 70 of its Agreement dated 7.6.2016, for consideration of the same by the Managing Director.

10. For the aforesaid, the Writ Petition is disposed of directing the petitioner herein to make a representation under Clause 70 of the Agreement dt. 7.6.2016 before the Managing Director of TSRTC, within a period of one week from the date of receipt of a copy of this order, and if any such representation is made by the petitioner, within the time indicated above, the same be considered and appropriate orders be passed in accordance with law, after giving notice to the petitioner. Till such time, no coercive steps shall be taken against the

petitioner pursuant to the impugned order dated 31.1.2017. It is further made clear that in the event of failure on the part of the petitioner herein to make a representation, within the time indicated supra, this order will not enure to the benefit of the petitioner and it is open for the respondent to proceed as per law. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall also stand closed.

JUSTICE A.V. SESA SAI

DATE: 15.03.2017
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