

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**  
**AND**  
**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT APPEAL NOS.1609 AND 1610 OF 2017**

**COMMON ORDER:** (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

These appeals, under Clause 15 of the Letters Patent, are preferred by the petitioners in W.P. No.33458 and 33409 of 2017, aggrieved by the order passed by the Learned Single Judge dated 06.10.2017 dismissing the Writ Petitions.

The petitioners questioned the action of the Superintending Engineer, Panchayat Raj, in terminating the contract agreement dated 25.11.2013 executed in favour of the petitioner through his proceedings dated 05.06.2017, as illegal, arbitrary, highhanded and in violation of principles of natural justice. The appellant-writ petitioner was issued a show cause notice calling upon him to show cause why the contract should not be terminated. He submitted his explanation thereto. However, the contract was terminated. The petitioners complaint is that the order, terminating the contract, did not refer to the objections raised by the petitioner in his reply to the show cause notice; and having issued a show cause notice, the third respondent was obligated to pass a reasoned order justifying his action in terminating the contract.

In the order under appeal, the Learned Single Judge, after extracting the order of termination, observed that the relationship between the appellant-writ petitioner and the third respondent was a contractual relationship; the impugned letter of termination was issued by the third respondent in pursuance of the Clauses of the agreement; there was a separate provision for resolution of disputes in case of illegal termination of the contract; in the present case, the period of

contract was never extended; the letter, *prima facie*, showed that there was no activity at site even after the contract period expired in 2014; and, in these circumstances, the Court could not entertain the present Writ Petition as it was clearly a private contractual matter, though the State was one of the contractual parties.

The Learned Single Judge further observed that the appellant-writ petitioner was not without remedy; and the action which the respondent took, in exercise of the powers vested in him under the clauses of the agreement, could be subjected to challenge in appropriate legal proceedings.

While it cannot be held that a Writ Petition is not maintainable in all cases where contractual disputes arise between the State and the contractor (parties to the agreement), the question whether a Writ Petition should be entertained or the petitioner should be relegated to the remedy of filing a Suit are all matters of discretion which the Learned Single Judge, in the present case, has exercised against the appellant-writ petitioner, and has left it open to him to avail his other remedies. While a show cause notice was no doubt issued, the obligation to issue such a show cause notice is not referable to any law nor, for that matter, to the agreement. In the absence of any statutory or contractual obligation on the part of the authorities concerned to issue a show-cause notice in the first place, the mere fact that they did so would not disable them from exercising their powers under the agreement to terminate the contract.

The dispute between the appellant-writ petitioner on the one hand, and the respondent-Government on the other, is contractual in nature, and is in the private law realm. The remedy, in case of breach of any of the terms and conditions of the agreement, would, ordinarily,

only be by way of a Civil Suit before a Civil Court of competent jurisdiction or, if the agreement so provides, before an arbitral Tribunal. Sri S. Lakshminarayana Reddy, Learned Counsel for the appellant, would fairly state that, in the present case, the contract does not provide for arbitration. If that be so, the remedy, to which the petitioner has been relegated, is evidently to file a Suit before a Civil Court of competent jurisdiction. Interference, in an intra Court appeal under Clause 15 of the Letters Patent, would be justified only if the order of the Learned Single Judge suffers from a patent illegality. The order of the Learned Single Judge, whereby the petitioner was relegated to avail other remedies as the dispute was purely contractual, does not suffer from any such infirmity.

Both the Appeals fail and are, accordingly, dismissed. Needless to state that the order now passed by us shall not disable the petitioner from availing his legal remedies in accordance with law. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

---

**RAMESH RANGANATHAN, ACJ**

---

**ABHINAND KUMAR SHAVILI, J**

Date: 31.10.2017.  
MRKR