

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8050 of 2016

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M/s Vishakha Facility Management Pvt. Ltd., 30/42, Street No. 8, Main Road,
Opposite Andhra Bank, Shahadara, New Delhi through it's Zonal Head, Prabhat
Kumar Srivastava, presently residing at Flat No. 302, R.N. Enclave, Kanti
Factory Road, Gandhi Nagar, Kankarbagh, Patna.

.... Petitioner

Versus

1. The Union of India through General Manager, East Central Railway, Hajipur,
District- Vaishali, Bihar.
2. The FA & CAO, East Central Railway, Hajipur, Vaishali, Bihar.
3. The Chief Mechanical Engineer, East Central Railway, Hajipur, Vaishali,
Bihar.
4. The Senior Divisional Mechanical Engineer, East Central Railway, Danapur.
5. The Divisional Finance Manager, East Central Railway, Danapur.
6. The Coaching Depot Officer/RNCC, East Central Railway, Danapur.

.... Respondents

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Appearance :

For the Petitioner : Dr.Mankeshwar Tiwari, Advocate.

For the Respondents : Mr. Mahesh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-03-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for quashing
the order dated 23.12.2015 issued by the respondent no. 6 whereby
the contract agreement of Mechanized Cleaning of Trains and OBHS at
RNCC Depot dated 05.04.2013 and first and second supplementary
agreement dated 29.05.2015 and 20.10.2015 stand rescinded and the
petitioner has been debarred from participation in tender for balance
work; and for connected reliefs.



3. This Court in its order dated 31.10.2017 had expressed the view that the petitioner ought to have invoked the Arbitration Clause instead of approaching this Court. It was pointed out that the petitioner had already approached the General Manager, East Central Railway by letter dated 13.01.2016 with a demand for arbitration but no action pursuant thereto had been taken. This Court accordingly required the parties to submit the names of three retired Judges of this Court for the purpose.

4. Learned counsel for the petitioner has submitted a list of names of three Hon'ble Judges namely (i) Hon'ble Mr. Justice Rajendra Prasad, Rtd. (ii) Hon'ble Mr. Justice S.K. Katriar, Rtd. (iii) Hon'ble Mr. Justice Abhijeet Sinha, Rtd., whose consent has been obtained.

5. Despite more than four months having elapsed since the order dated 31.10.2017, however, the respondent-Railway has not submitted the requisite list.

6. Having regard to the long duration since the dispute has been pending and the demand of Arbitration having been made as far back as on 13.01.2016, this Court accordingly appoints Hon'ble Mr. Justice Rajendra Prasad, a retired Judge of this Court residing at Near Beur Central Jail, Beur, Patna, as the sole Arbitrator for resolution of the disputes between the parties in accordance with the provisions of the Act.



7. The petitioner must approach the said Arbitrator within one month along with a certified copy of this judgment and file his statement of claims, whereupon the said Arbitrator will proceed with the adjudication expeditiously. The fees of the Arbitrator shall abide by the Fourth Schedule of the Act, and shall be borne equally by the parties.
8. With the aforesaid directions, the writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.03.2018
Transmission Date	N.A.

