

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

906 WRIT PETITION NO. 9680 OF 2013

M/S PATIL CONSTRUCTIONS
VERSUS
THE UNION OF INDIA AND OTHERS

...
Advocate for Petitioner : Mr. A.S. Kale h/f. Mr. S.B. Talekar
GP for Respondents 1 and 2 : Mr. A.B. Girase
...

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : March 6, 2018.

ORDER :

1. In view of nature of reliefs claimed by the petitioner in the present proceeding, the learned counsel for petitioner was asked to argue on the tenability of the proceeding in this High Court. He is heard for sufficient length of time.

2. The prayers made in the prayer clause of the petition are as under :-

"(A) To quash the impugned order dated 16th July, 2013, debarring the petitioner company from participating in the tender/contract, issued by Engineer-in-Chief, Road Construction Department (RCD) Jharkhand, Ranchi (**Exhibit - "Y"**), by issuing a writ of certiorari, orders directions or any other appropriate writ, as the case may be;

(B) To grant interim stay to the operation, execution and implementation of the impugned order dated 16th July, 2013, debarring the petitioner company from participating in the tender/contract, issued by Respondent Nos. 3 and 4, pending the hearing and final disposal of this writ petition;"

3. The submissions made by the learned counsel for petitioner show that in the past the petitioner, contractor had an agreement with respondent No. 6. There was some dispute regarding execution of work and then the petitioner was blacklisted by respondent Nos. 4 to 6, the authorities from Jharkhand State.

4. This Court has seen copy of agreement produced on the record which includes arbitration clause. Even if that clause is considered and the grievance of the present petitioner is considered, it cannot be said that the cause of action for the present petitioner has arisen in Maharashtra. This Court has no hesitation to observe that the cause of action, if any, had arisen for the petitioner was in Jharkhand State and he ought to have approach Jharkhand High Court.

5. The learned counsel for petitioner drew the attention of this Court to Article 226 (2) of the Constitution of India. If that portion of Article 226 is read with provision of section 20 (1) of Civil Procedure Code, it can be said that cause of action arose in Jharkhand State and so, this Court cannot entertain the present proceeding. The learned counsel for the petitioner placed reliance on some observations made by the Apex Court in the cases reported as **(1989) 2 SCC 163 [A.B.C. Laminart Pvt. Ltd. and Anr. Vs. A.P. Agencies, Salem]** and **(2014) 9 SCC 329 [Nawal Kishor Sharma Vs. Union of India and Ors.]**. The facts of both these reported cases were altogether different. This Court holds that this Court cannot consider the grievance of the present petitioner. So, the petition is disposed of as not tenable. There will be liberty to the petitioner to approach aforesaid High Court.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/