

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.349 OF 2018

R. K. R. Engineers ... Petitioner

Versus

Union of India & Anr. Respondents

Mr. J. A. Lobo, Advocate for the Petitioner.

Mr. M. Amonkar, Central Government Standing Counsel for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 23 July 2018.

P.C. :

By this petition, the Petitioner has challenged the letters dated 24 February 2018 and 27 February 2018, and sought to restrain the Respondents-Authorities from proceeding further based on the impugned letters.

2. The Petitioner is engaged in the business of civil construction work. Pursuant to the e-tender issued by the Executive

Engineer of the Public Works Department, the Petitioner has submitted his bid. According to the Petitioner, same was accepted and further communication between the parties were going on. Thereafter, on 24 February 2018, a letter was received by the Petitioner from the Respondent No.2 stating that the performance of bank guarantee has been forfeited. The contract was terminated. Thereafter, the Petitioner made representations to the Respondent No.2. It is the contention of the Petitioner that the agreement was wrongfully terminated and the action of forfeiture of performance of bank guarantee is illegal and unauthorised.

3. When the petition came up on board on 14 March 2018, it was adjourned for the Respondents to file their reply. The Petitioner has sought an interim relief to restrain the Respondents from proceeding with fresh e-tender, which was issued by speaking order. We had rejected the request of interim relief *prima facie* observing that the grievance of the Petitioner is computable in terms of money in the form of damages and no case was made out to restrain the Respondents-Authorities to proceed further in completion of public work.

4. After the reply was filed by the Respondents, time was

sought on behalf of the Petitioner on several occasions to file rejoinder. On the last date, we had adjourned the petition by way of a last chance. The learned counsel for the Petitioner submitted that the Petitioner has not contacted him for filing the rejoinder, despite of reminders.

5. We have gone through the petition, records and proceedings and heard the learned counsel for the parties. The Petitioner has challenged the termination of contract and the action taken pursuant to the same by taking various grounds in the petition, which have been reiterated by the learned counsel for the Petitioner. The learned counsel for the Respondents pointed out that the e-tender process has gone ahead and the work has been awarded to the successful tenderer and is currently being carried out. Therefore, the prayer of the Petitioner to restrain the Respondents-Authorities from acting further on the basis of the impugned order and to stay the issue of fresh e-tender does not survive.

6. What is left now, is the legality of the termination of contract and consequence that have ensued. This is now a civil dispute between the Petitioner and the Respondents wherein the Petitioner is claiming damages and return of performance of bank guarantee and

the penal action taken by the Respondents. This dispute will be more appropriately adjudicated in the Civil Court by leading evidence in support of their contentions for determination of compensation, liability, breach of contract etc. Keeping all those remedies open to the Petitioner, the writ petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.