

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9793 OF 2016

K. Prasad Engineering Contractor
Through its Sole Proprietor .. Petitioner.
Vs.
The Konkan Railway
Corporation Ltd. and Ors. .. Respondent.

Mr.Anoop Patil for the Petitioner.
Mr.Kiran Bhagalia for the Respondent No.1.

**CORAM : A.A. SAYED &
A.K. MENON, JJ.
DATED : 28TH NOVEMBER, 2018.**

P.C. :

1. The prayers in the Writ Petition are as follows :

“(A) Issue a Writ of Mandamus or any other Writ in the nature of Writ of Mandamus, order or direction in the like nature and thereby direct the Respondent Authorities in general and more particularly the Respondent Nos.1 to 3 to decide the representation of the Petitioner which was received by the Respondent No.7 and acknowledged vide its letter to the Petitioner dated 2.03.2016 (Exhibit X Collectively).

(B) Quash and set aside the letters dated 7.09.2015 &

16.09.2015 (Exhibit T & U) issued by the Respondent Authorities, more particularly the Respondent No.2. and declare that the same are in absolute contravention with the findings of the Arbitral Award dated 31.07.2015.

(C) Issue a Writ of Mandamus or any other Writ in the nature of Writ of Mandamus, order or direction in the like nature and thereby direct the Respondent Authorities to honor and enforce the award passed by the Ld.Arbitral Tribunal dated 31.07.2015 (Exhibit R) in its letter and spirit.

(D) Quash and set aside the notices purportedly issued under Clause 61.1 of the General Conditions of Contract for work of KRCL by the Respondent Authority vide letters dated 27.01.2015, 11.02.2015, 16.02.2015 and 20.02.2015 (Exhibit O & P Collectively) by declaring that the same are illegal, arbitrary and debar the provisions of law and general principles of justice and fair play.

(E) During the pendency of the present Writ Petition, direct the Respondent Authorities not to off load the work and get the same done at the 'risk and cost' of the Petitioner or to set off the amount of 'risk and cost' against the amount so awarded to the Petitioner vide Arbitral Award dated 31.07.2015.”

2. The Petitioner has other remedies available to him in law. In the circumstances, we are not inclined to entertain the Petition. The Petition is, accordingly dismissed. It would be open for the Petitioner to resort to the other remedies available to him, if so advised.

(A.K. MENON,J.)

(A.A. SAYED,J.)