

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.36813 OF 2013

ORDER:

The petitioner prays for the following relief:

“...Writ of Mandamus or any other appropriate writ Order or Orders declaring the action of the 3rd Respondent in cancelling the award and forfeiting the EMD without any show cause notice, enquiry or giving any opportunity to the Petitioner to be heard as illegal, arbitrary, unconstitutional and violative of principles of natural justice and to consequently declare that the tender notice No PCET/2013-14/2 dated 06 12 2013 for leasing of Parcel Cargo Express Trains as bad in law and to stop all further proceedings consequent to the said notice and to issue a consequential direction to the R1 to proceed with the contract under the award letter dtd 13 09 2013 and award costs...”

Mr.P.Ravi Prasad and Mr. T.S.Venkataramana have for considerable length of time made submissions on merits of the prayer. The learned counsel do not dispute the general conditions of subject tender provide for resolution of disputes through arbitration. The counsel therefore fairly state that the issue for consideration in the case on hand ultimately centres round the forfeiture of EMD of Rs.10,00,000/- is available and if so, in the fact situation of the case, the forfeiture of entire EMD is legal and tenable. The issue either way falls within the alternate dispute redressal mechanism accepted by the parties. Therefore, by leaving it open to petitioner to work out the prayer against forfeiture of EMD of Rs.10,00,000/- before the agreed forum, the writ petition is dismissed with the above observation. No order as to costs.

S.V.BHATT, J

Date:22.03.2018
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