

\$~8

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ O.M.P.(I) (COMM.) 128/2016

DARCL LOGISTICS LTD

..... Petitioner

Through Mr.Manu Beri, Adv.

versus

INDIAN RAILWAYCATERING AND TOURISM CORPORATION
LIMITED

..... Respondent

Through Mr.Rajat Malhotra, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

%

01.02.2018

This petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') *inter-alia* seeks the following reliefs:

“A. Restrain/Injunct the Respondent its associates, subsidiaries and affiliates either individually and/or in association from illegally terminating the Contract of Carrying and Forwarding Agency and Transportation Services of Rail Neer, Packaged Drinking Water from Rail Neer, Plant Ambernath of the Respondent, awarded by the Respondent to the Applicant vide CO letter No. IRCTC/RN/Logistics/AMB/2013 dated 28.10.2014 in reference to Tender No. IRCTC/RN/AMB/Logistics/2014 dated 31.07.2014, the terms and conditions of the Contract of which are contained in the said tender document dated 31.07.2014 till such time the disputes between the parties are resolved in accordance with the mechanism provided under the said contract.

B. Restrain/Injunct the Respondent its associates, subsidiaries and affiliates either individually and/or in association from Forfeiting the Security Deposit that is deposited with the Respondent till such time the disputes between the parties are resolved in accordance with the mechanism provided under the said contract.

C. Restrain/Injunct the Respondent its associates, subsidiaries and affiliates either individually and/or in association from debaring it from participating in future projects till such time the disputes between the parties are resolved in accordance with the mechanism provided under the said contract.

D. Stay the show cause notice dated 31.03.2015 issued to the Applicant by the Respondent.”

On 07.09.2015 this Court had passed the following order:

“Mr. Sunil Malhotra, the learned counsel, enters appearance on behalf of the respondent and submits at the outset that the petition is not maintainable. He further submits that in another dispute between the same parties, mediation is underway. For resolution of this lis, he submits that without prejudice, this matter too shall be sent for mediation, to which the learned counsel for the petitioner has no objection.

Mr. Malhotra further submits that although the arbitration clause has been invoked but before the arbitration proceedings commences, the process of conciliation has to be exhausted. Accordingly, the Conciliator will be appointed in a week's time to look into the matter.

Be that as it may, when the conciliation process is underway, it would be expected that the respondent would not take any precipitate steps to the prejudice of the petitioner.”

Since that date till today, the parties are before the Conciliator in terms of the contract and repeated adjournments have been taken on the

ground that the parties are still exploring the possibility of settlement.

Even today, a request is made that the matter is before the Conciliator and in view thereof no perceptive action is contemplated against the petitioner.

In view of the above, the petition is disposed of granting liberty to the petitioner to take such remedy as may be available in law, upon the decision of the Conciliator or otherwise, if so required in future. This order is passed without making any observation on the merit of the claim of the petitioner or otherwise.

It is directed that the Conciliator should decide the disputes expeditiously and preferably within a period of four weeks from the date of communication of this order.

The petition is disposed of with the above directions.

Dasti.

NAVIN CHAWLA, J

FEBRUARY 01, 2018/Arya