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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8632/2017

JAN CHETNA JAGRITI AVOM SHAIKSHANIK
MANCH

..... Petitioner

Through: Mr K. B. Upadhyay and Mr S. N.
Tripathi, Advocates.

versus

GOVERNMENT OF NCT OF DELHI

..... Respondent

Through: Mr Gautam Narayan, ASC GNCTD
with Ms Mahamaya Chatterjee,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **15.11.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 28.08.2017 passed by the respondent (hereafter GNCTD), whereby the performance security submitted by the petitioner in respect of agreements for supply of supplementary nutrition food for Integrated Child Development Scheme Projects (ICDS Project) has been forfeited.
2. Mr Gautam Narayan, learned counsel appearing for GNCTD submitted that the said action was taken in terms of the agreements entered into with the petitioner. He referred to clauses 10, 13 and 14 of the Agreement dated 14.06.2006 entered into with the petitioner in respect of one of the projects. He also referred to a Tripartite Agreement dated 01.10.2010 entered into with the petitioner in respect of additional centres. He submits that there was deficiency in the performance of these contracts.

3. GNCTD had issued a show cause notice dated 18.03.2015 in respect of the deficient supply of SNF to the Khanpur project. The said show cause notice was replied to by the petitioner. The said response indicates that the petitioner had accepted the quantity of SNF supplied was less and had explained that the same was on account of shortage in supply of water.

4. The petitioner was issued another show cause notice dated 04.06.2015 in respect of agreements pertaining to six other projects. The petitioner responded to the said show cause notice on 06.07.2015.

5. It is contended on behalf of the petitioner that the responses submitted by the petitioner to the aforesaid mentioned show cause notices were found to be satisfactory and this is evident from the fact that the agreement entered into with the petitioner was extended for a further period from 01.08.2015 to 31.01.2016. According to the petitioner, the action of forfeiture of performance security is not warranted.

6. It is apparent from the above that the disputes raised by the petitioner are essentially contractual disputes. It is also noticed that the agreement dated 14.6.2006 contains an arbitration clause whereby, the parties had agreed to refer the disputes to a sole arbitrator by any member nominated by the Lieutenant Governor of Delhi. It is stated that other agreements entered between the parties also contain an arbitration clause. The learned counsel appearing for the petitioner states that the petitioner had already invoked the arbitration clause. In view of the above, this Court does not consider it apposite to examine the controversy regarding forfeiture of the performance security in these proceedings. According to the petitioner, the arbitral proceedings have already commenced and it is well settled that this Court will not interfere with arbitral proceedings under Article 226 of the

Constitution of India.

7. The petition is, accordingly, dismissed leaving it open for the petitioner to pursue its contractual remedies.

VIBHU BAKHRU, J

NOVEMBER 15, 2018
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