

\$~24

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

+ **W.P.(C) 1196/2018**

**M/S TECHNICAL CONSTRUCTION
COMPANY**

..... Petitioner

Through: Mr Aasim Ali, Mr Faiz Sherwani and
Mr Swapandeeep Singhal, Advocates.

versus

**ENGINEERING PROJECTS (INDIA) LTD.
AND ANR.**

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

09.02.2018

CM No. 4986/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1196/2018

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a) Issue a writ, direction or order directing respondent no.1 to make payments of rupees 30,86,719.00 (thirty lakh eighty-six thousand and seven hundred nineteen) to the petitioner which is due for work order no. NRO/CON/519/586 dated 04.06.2012;”

4. The petitioner claims that respondent no.1 (Engineering Projects (India) Ltd. – hereafter ‘EPIL’) had issued a work order (Work Order No. NOR/CON/519/586 dated 04.06.2012) for piling work at Kho River for 33

2

KV line of 33/11 KV, Badahpur Sub Station in District Bijnaur, U.P.

5. It is claimed that the total value of the work was ₹40,96,115/- against which the bill of ₹48,47,043.98/- was raised by the petitioner. The petitioner further states that the work was completed to the satisfaction of EPIL. However, the petitioner has not been paid the full consideration for the same. The petitioner claims that it received part payment of a sum of ₹15,00,000/- on 03.01.2014 but its efforts to recover the remaining amount of ₹33,47,042/- has not met with any success.

6. In this context, an application under Right to Information Act, 2005 (hereafter 'the Act') was made by Mr Praveen Kumar (who is stated to be employed as Accountant with the petitioner company). EPIL responded to the aforesaid request informing the information seeker that a sum of ₹30,86,719/- remained to be paid. It was also stated that this amount could not be paid "*due to non-receiving of payment from PVVNL*".

7. The learned counsel appearing for the petitioner states that there was no clause in the contract (work order or the terms and conditions) which made the payments due to the petitioner contingent upon the receipt of funds from respondent no.2 (Paschimanchal Vidyut Vitran Ltd. – hereafter 'PVVNL').

8. I have heard the learned counsel appearing for the petitioner. A bare perusal of the terms and conditions indicates that it includes an alternate dispute resolution clause, whereby all disputes are to be resolved amicably failing which the same are to be referred to the sole arbitration of the Chairman and Managing Director of EPI or a person appointed by the CMD,

3

EPI.

9. It is also apparent that the dispute raised is a contractual dispute and the petitioner has an adequate remedy by way of arbitration. Further, it would not be apposite to entertain a writ petition in respect of such contractual disputes.

10. The contention that there is no dispute since the amount payable has been admitted by EPIL, is not persuasive. EPIL has given a reason for not making the remaining payment; that is, non receipt of funds from PVVNL. The question whether the said explanation is justified is plainly a matter of dispute.

11. In view of the above, this Court is not inclined to entertain the present petition. The same is, accordingly, dismissed leaving it open for the petitioner to take such remedies as may be available in law.



VIBHU BAKHRU, J

FEBRUARY 09, 2018
RK