

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15922 of 2017

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M/s Pristine Magadh Infrastructure Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered Office at 3rd Floor, Wing B, Commercial Plaza, Hotel Radisson, Mahipalpur, NH-8, New Delhi-110037 through its Regional Head Rakesh Kumar

... .. Petitioner

Versus

1. The Union Of India through the General Manager, East Central Railway, Hajipur, District- Vaishali-844101
2. Divisional Railway Manager, East Central Railway, Danapur, District- Patna- 801105.
3. Deputy Chief Engineer G, East Central Railway, P.O.- Hajipur, District- Vaishali - 844101.
4. Senior Divisional Engineer Co-ord, East Central Railway, Danapur, District- Patna- 801105.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate Mr. Rohit Raj, Advocate
For the Respondent/s	:	Mr. Abhinay Raj, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-10-2019 Heard learned counsel for the petitioner and learned counsel representing the Railways.

In the nature of the order being proposed to be passed by this Court, no counter affidavit is being invited at this stage. Let it be recorded that the writ application has remained pending for about two years in this Court, however, no counter affidavit has come on the record.

Be that as it may, the dispute raised by the petitioner is with regard to the license fee with regard to the rail connectivity. The petitioner claims that the demand notice for



the license fees for the year 2015-16 and 2016-17 dated 29.03.2017 are contrary to the policy guidelines of the Ministry of Railways, Government of India.

Learned counsel for the Railways has drawn the attention of this Court towards Article 26 of the agreement which deals with the Dispute Resolution. Clause 26.1 to 26.3 talk of the conciliation proceeding between the parties in the event of any dispute. Clause 26.4.1. talks of an arbitration proceeding if the dispute remains unresolved amicably.

It is submitted that in view of an adequate alternative remedy of conciliation and arbitration proceeding under the agreement itself, the petitioner should not have rushed to this Court under Article 226 of the Constitution of India and the alternative remedy should have been applied for.

Having heard learned counsel for the parties and on a careful perusal of the records, this Court finds substance in the submission of learned counsel for the Railways. The Dispute Resolution provisions contained under Article 26 of the agreement is comprehensive and it provides forum to the parties to resolve their dispute amicably and if that is not possible, then they can invoke the arbitration clause under clause 26.4.1. It appears that the petitioner has not applied for



the alternative remedy and has directly moved this Court.

In the given facts and circumstances of the case, the writ application is being disposed of granting liberty to the petitioner to proceed in accordance with the Dispute Resolution Article under the agreement. If the dispute cannot be resolved amicably within the prescribed period under Article 26.3, they will have remedy available under Clause 26.4.1 of the Agreement.

At this stage learned counsel for the petitioner has submitted that one Interlocutory Application No. 1 of 2019 has been preferred before this Court to place on record a demand notice issued by the respondent corporation calling upon the petitioner to deposit a sum of Rs. 2.68 Crore at the earliest to avoid any penal action. Learned counsel submits that vide letter dated 22.08.2019 the respondents have threatened that if the amount is not paid, siding may be closed for operations for PFT/Bihta.

In the given circumstance, while granting the petitioner a liberty to seek his remedy in terms of Article 26 of the agreement within a period of 30 days from today and pray for an appropriate relief before the concerned authority, this Court directs that for a period of 30 days from today no coercive action shall be taken against the petitioner pursuant to



the demand notice issued against him.

The writ application as well as the interlocutory application are disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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