

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3787 of 2019**

M/s Shivam Coal Carriers Private Limited Through Its Director Ravindra Dura, Having Its Registered Office At 206, Palco House, 2162/t-10, Guru Arjun Nagar, Main Road, West Patel Nagar, New Delhi - 110 008.

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through The Chairman Cum Managing Director, SECL Bhavan, Seepat Road, Bilaspur - 465 555, Chhattisgarh
2. The General Manager (HOD, CMC) South Eastern Coalfields Limited, SECL Bhavan Seepat Road, Bilaspur, 495 555 Chhattisgarh
3. R.K. Nigam Director Technical (O), SECL Bhavan, Seepat Raod Bilaspur - 495 - 555, Chhattisgarh

---- Respondents

For Petitioner	: Shri Kshitij Sharma, Advocate
For Respondents	: Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal and Shri Vaibhav Shukla, Advocates.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**P. R. Ramachandra Menon, Chief Justice****22.10.2019**

1. The petitioner has moved this Court with the following prayers :-

“a. That, the Hon'ble Court may be pleased to issue a writ of an appropriate nature directing the Respondents to permit the petitioner to participate in the tender and consequently give access to the Respondent's online portal to the petitioner.

b. That, the cost of this petition may kindly be allowed in favour of the petitioner; and

c. That, any other relief(s) or direction(s) which the Hon'ble Court deems fit and proper in the circumstances of the above case may kindly be passed.”

2. It is contended that after passing Annexure P/1 verdict by this Court, ordering return of the EMD of Rs.50 Lacs to the Petitioner, the Respondents have not honoured the same and are proceeding with further steps to oust the Petitioner from the field, without any regard to the rule of law. It is stated that since the other aspects were left out by this Court, to be pursued by way of Arbitration, the Petitioner herein filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 before the Commercial Court (District Level) and an order was passed on 26.09.2019 in the following terms :-

“46- In view of the afore-said, the application u/s 9 of the Act of 1996 filed by the applicant is allowed in following manner:-

A- The execution/operation of the cancellation order dated 26.02.2019 to the extent that it debar applicant from participating in future tender for a period of 24 months is stayed till the constitution of Arbitration Tribunal.

B- The non-applicants(SECL) is directed to grant access to its online portal to the applicant so that the applicant can participate in the tenders floated by the non-applicants(SECL).

C-It is directed that the Arbitration proceeding shall be commenced within a period of 90 days from the date of this order.

D- The applicant will have the liberty to agitate the issue regarding of debarment from participating in future tenders for a period of 24 months under Section 17 of the Arbitration and Conciliation Act, 1996 before the Arbitration Tribunal.”

3. It is not been given effect to by the Respondents and the blacklisting continues, whereby the Petitioner is not permitted to participate in the online bid in spite of the specific order granting such permission by the Commercial Court.

4. Learned senior counsel representing the Respondents submits that Annexure P/1 verdict passed by this Court has already been subjected to challenge, which however is still to be considered by the Apex Court. It is also pointed out that the verdict passed by the Commercial Court has also been subjected to challenge in Arbitration Appeal No.48 of 2019, which though was listed before the Court, stands adjourned to be considered after Deepawali holidays. The learned senior counsel submits that since the relief sought for in the writ petition is virtually similar as considered and granted by the Commercial Court, the writ petition is not maintainable.
5. Learned counsel for the Petitioner seeks for permission to withdraw the matter without prejudice to rights and liberties of the Petitioner to pursue other appropriate proceedings in accordance with law, moulding the pleadings and prayers in an appropriate manner.
6. Permission is granted.
7. The writ petition is dismissed as withdrawn with the liberty as aforesaid.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge