

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2080 of 2020**

- Jyothi Enterprises, Through Its General Manager/POA Holder, Mr. Ramashankar Tiwari, aged about 50 years, S/o Late Mr. Gaya Prasad Tiwari, R/o Chandni Chowk, Shankarpur, Purshudih, Jamshedpur-831002.

---- Petitioner**Versus**

1. South East Central Railway (SECR), Through Its General Manager, GM/SECR's Officer Complex, Bilaspur (C.G.)
2. Divisional Railway Manager, Bilaspur Division, South East Central Railway, Bilaspur (C.G.)
3. Senior Divisional Electrical Engineer (Operations), South East Central Railway, Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Shri Kishore Bhaduri, Advocate.
For Respondents	:	Shri R.S. Patel, Advocate.

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

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****17.09.2020**

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

“10.1 This Hon'ble Court may kindly be pleased to call for record of entire tender process which is subject matter of the present petition.

10.2 That the Hon'ble Court may kindly be pleased to direct the respondent department to abstain itself from terminating the contract of the Petitioner.

10.3 That the Hon'ble Court may kindly be pleased to direct the respondent department to abstain itself from taking any coercive action against the Petitioner including forfeiture of the Earnest Money deposited by the Petitioner.

10.4 That the Hon'ble Court may kindly be pleased to direct the respondent authorities to make good remittance of the payment pending to be made to petitioner for the services already rendered by the petitioner.

10.5 That the Hon'ble Court may kindly be pleased to grant any other relief(s)/order(s)/direction(s) in favour of petitioner, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.

10.6 Cost of the petition."

2. Heard Shri Kishore Bhaduri, the learned counsel appearing for the Petitioner as well as Shri R.S. Patel, standing counsel for the Respondents/Railways.
3. The learned counsel for the Petitioner points out that on coming out successful in the tender floated by the Respondents, the Petitioner was identified and awarded the work with regard to providing of catering services to the employees working in the Respondents-Department. As per the terms of the contract, it was for the Petitioner to provide nearly 482 meals per day to the Department, but by virtue of the present 'Covid-19' pandemic scenario, the Respondents-Department have instructed the Petitioner to supply only 10 to 20 meals a day which has virtually cut down the very existence of the Petitioner. Invocation of the 'Force Majeure' clause in the agreement (as per Clause 4.12) is very much necessary and there is absolutely no fault or lapse, in any manner, on the part of the Petitioner. In the said circumstance, the grievance of the

Petitioner has been projected before the Respondents, particularly the 3rd Respondent, by way of various representations such as Annexures P/3 to P/5, which however, have not yielded any positive response and hence the writ petition.

4. When the matter is taken up for consideration, the learned counsel for the Petitioner submits that the Petitioner will be satisfied if a direction is given to the 3rd Respondent to consider and pass appropriate orders on the above representations within a time frame.
5. The learned standing counsel appearing for the Respondents/Railways seeks for time to file a reply statement. However, in view of the limited relief sought for by the Petitioner, we are of the view that the merits need not be looked into by this Court for the time being and it shall be open for the Respondents to consider the grievance and pass appropriate orders.
6. Accordingly, the 3rd Respondent is directed to consider and pass appropriate orders in accordance with law, on Annexures P/3 to P/5 representations preferred by the Petitioner; of course after affording an opportunity of hearing to the Petitioner. It shall be done, as expeditiously as possible, at any rate within 'one month' from the date of receipt of a copy of this judgment.
7. The writ petition is disposed off accordingly. The Petitioner shall produce a copy of this judgment, along with a full text of the writ petition before the 3rd Respondent for further steps.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge