IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Special Appeal No.321 of 2020

M/s Balram Singh .....Appellant

Vs.

Bharat Sanchar Nigam ...Respondent

Shri Sudhir Kumar, learned counsel for the appellant.
Smt. Anjali Bhargava, learned counsel for the respondents.

29th December, 2020

Coram : Hon'ble Ravi Malimath, A.C.J.
Hon'ble Alok Kumar Verma, J.

Ravi Malimath, A.C.J. (Oral)

For the reasons assigned, the delay condonation application (CLMA No.10845 of 2020) is allowed. The delay in filing the appeal is condoned.

2. Aggrieved by the order dated 13.08.2020 passed by the learned Single Judge in dismissing writ petition No.2891 of 2019 (M/S), the petitioner is in appeal.

3. The writ petition was dismissed on the ground that the petitioner has an alternative remedy to pursue his legal rights. Learned Single Judge further observed

that the extraordinary remedy available under Article 226 of the Constitution of India would not be an appropriate remedy for deciding the claim of the petitioner, as for deciding the disputed questions of facts, oral evidence would be required to be led. As the writ petition was not maintainable, accordingly, the writ petition was dismissed with a liberty to the petitioner to approach the appropriate forum for ventilation of his grievance. Aggrieved by the same, instant appeal is filed.

4. Learned counsel for the appellant contends that a number of orders have been passed by this Court in the earlier round directing the respondents to consider his case and to make payment of the disputed amounts. None of that has been complied with.

5. Learned counsel for the respondents submits that an alternative remedy is available and moreover, the terms of the contract provide for arbitration and hence, there is no error committed by the learned Single Judge to dismiss the writ petition.

6. We do not find any merit in this appeal. The arbitration clause exists between the parties in the terms of the contract. Therefore, if there is any dispute, the petitioner is always entitled to invoke the arbitration clause.

7. However, the writ petition for the same action would not be maintainable in view of the availability of an alternative remedy. Hence, we are of the considered view that there is no error in the order passed by the learned Single Judge and hence does not call for any

interference. The appeal, being devoid of merit, is dismissed.

(Alok Kumar Verma, J.) **(Ravi Malimath)**
A.C.J.

JKJ/SK