

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No. 295 of 2021

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Winsome International Limited A Company incorporated under Indian Companies Act 1956 having its registered office at 5th Floor, 16A Brabourn Road, Kolkata 700001 through its authorized signatory Kumar Rajesh, Aged About 53 years, S/o Late Suresh Chandra Prasad, R/o Chhapra Colony, New Jakkanpur, P.O.- Patna GPO, P.s.- Jakkanpur, Patna- 800001.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Bihar State Food and Civil Supplies Corporation Limited Through its Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna- 800001.
4. Managing Director Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna- 800001.
5. The Chief Procurement Officer Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna- 800001.
6. The Nodal Officer Bihar State Food and Civil Supplies Corporation Limited,



Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna- 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Adv.
	:	Mr. Siddharth Prasad, Adv.
For the Respondent/s	:	Mr. Alok Ranjan (AC to AAG 5)
For BSFC	:	Mr. Shailendra Kr. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 02-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned Senior counsel for the petitioner Sri S.D. Sanjay assisted by Sri Siddharth Prasad, Adv., the learned counsel for the State Sri Alok Ranjan (AC to AAG-5) and the learned counsel for BSFC Sri Shailendra Kr. Singh.

The issue involved in the present petition is very simple, inasmuch as the petitioner seeks expeditious disposal of the Execution case bearing Execution case no. 305 of 2020, pending before the Ld. Court of District and Sessions Judge, Patna.

Shorn of the details, it would suffice to state that the



petitioner company had submitted its bid in pursuance to the tenders issued by the Respondent Bihar State Food and Civil Supplies Corporation Ltd., Patna for supply of new gunny bags for the K.M.S. years 2014-15 and 2015-16 and after being declared as the successful bidder, the petitioner had entered into two agreements for supply of new gunny bags. Thereafter, the Respondent Bihar State Food and Civil Supplies Corporation Ltd., Patna had issued a tender for the K.M.S. year 2016-2017, wherein, the petitioner had deposited a sum of Rs. 50,00,000/-, as earnest money but despite being L1, it was not awarded the contract. Consequently, disputes had arisen regarding payment of the due amount and refund of the amount of earnest money. The petitioner was also blacklisted for three years by the respondent corporation. The petitioner had then approached this Court for redressal of its grievances by filing a writ petition bearing CWJC No. 19635 of 2018, which was disposed of by a co-ordinate Bench of this Court vide order dated 04.12.2018 and an arbitrator was appointed with the consent of the parties for deciding the dispute in question. The learned Arbitrator has delivered an Award dated 2.11.2019 in favour of the petitioner company i.e. the decree holder, however, the respondent Corporation i.e. the judgment-debtor has failed to honour the



same resulting in the petitioner filing an Execution Case for enforcement of the arbitral award dated 2.11.2019, as against the judgment- debtor, before the learned court of District & Sessions Judge, Patna bearing Execution Case No. 305 of 2020 on 18.6.2020.

It is the contention of the learned Senior counsel for the petitioner that the case has been adjourned on several dates and the learned court below is not taking any step for execution of the award in question or for that matter for disposal of the aforesaid Execution Case No. 305 of 2020, which would be apparent from the orders passed by the learned court below in the said Execution Case No. 305 of 2020 from time to time.

Per contra, the learned counsel for the Respondent Corporation Shri Shailendra kumar Singh has submitted that the Respondent Corporation is bound to co-operate in the pending Execution Case No. 305 of 2020 and is not creating any impediment in disposal of the same, however, it is submitted that the respondent Corporation ensures that it would extend all possible assistance to the learned court below so that the said Execution Case No. 305 of 2020 can be disposed of at the earliest. Nonetheless, it is submitted by the learned counsel for the Respondent Corporation that the respondent Corporation has



also challenged the arbitral award dated 2.11.2019, however, he has fairly admitted that there is no stay of the arbitral award dated 2.11.2019.

At this stage, the learned Senior counsel for the petitioner has submitted that mere filing of an application, challenging the arbitral award dated 2.11.2019, would not act as a bar to the enforcement of the award inasmuch as no stay has been granted in the pending Miscellaneous Case No. 337 of 1990, filed by the respondent Corporation, before the learned court of District and Sessions Judge, Patna, challenging the award dated 02.11.2019.

Having regard to the facts and circumstances of the case and with the consent of the parties, the present petition is being disposed of with a simple direction to the learned District and Sessions Judge, Patna to ensure disposal of the said Execution case no. 305 of 2020 within a period of 06 months of receipt/production of a copy of this order.

It is needless to state that the parties would not be entitled to seek unnecessary adjournments before the learned court below and any impediment being created in disposal of the aforesaid Execution case no. 305 of 2020, at the behest of any of the parties, would amount to disobedience of the orders of this



Court.

(Mohit Kumar Shah, J)

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