

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2757 of 2021

Ms M.K Gupta and Co. CJJ Infraprojects (JV) through its power of attorney holder Mr. Deepak Jain, aged about 33 Years, son of Sri Bijay Jain, Jain House, 165 Seth Srilal Market, Ward No. 11, Near City Center, P.O and P.S - Siliguri (M. Corp), District- Darjeeling, State- West Bengal-734001. Official Address- Mobile Plaza Building, First Floor, Sevoke Road, Siliguri-734001

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur (Bihar)
2. The General Manager, East Central Railway, Hajipur (Bihar)
3. The Chief Engineer/Con/NE, East Central Railway, MHX, Mahendrughat, Patna-800004.
4. The Dy. Chief Engineer/Con/IV/SPJ, East Central Railway, Samastipur, Bihar.
5. The Chief Administrative Officer (Con), North, East Central Railway, Mahendrughat, (1st Floor), Patna-04.
6. The XEN/C/II (Executive Engineer) SRGR (Saraigarh), East Central Railways, Saraigarh. (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manish Sahay, Advocate
For the Respondent/s	:	Dr. K. N. Singh, A.S.G.
		Mr. Siddhartha Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 22-11-2021 Petitioner has prayed for the following relief(s):-

- (i) **For quashing of termination order**, issued vide letter No. ECR / CAO / CON / WT / E-TENDER / NORTH / 60 / 61-17 / 2713 dated 03.12.2020 under signature of Mr. A K Rai, Chief Engineer/Con/NE, East Central



Railway, MHX (i.e. Respondent No. 3) as contained in Annexure-P-6, whereby and where under within extended period (contract period was extended till 24.12.2020), the contract of the petitioner bearing Agreement No. ECR / CAO / Con / WT/ Agt / 24 dated 27.11.2017) has been rescinded under clause 62 of the Standard General Condition of Contract alleging breach of contract and in most arbitrary manner, colourable exercise of power. Although such breach was not admitted by the petitioner.

- (II) **For directing** the concerned respondent **either allow** the petitioner to complete the balance work within 30th June, 2021 **Or refund** his entire security deposit / Performance Security / Performance Security deposit / and other lawful amount including work done amount relates to said agreement.
- (III) **For restraining the** respondents invite fresh tender for balance work or handing over balance work to another agency and for taking any coercive steps against the petitioner during pendency of this writ application.
- (IV) **For further restraining** the respondents for encashment of bank guarantee of **Rs. 1,35,00,000/-** relates the contract in question during pendency of this writ application.
- (V) **For declaring** that the actions of the respondents are arbitrariness, malafide, malicious, colourable exercise of power, as well as contrary to provision of agreement.
- (VI) **For further passing** such an Order or Orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

After the matter was heard for some time, learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to take recourse to the remedies providing dispute resolution mechanism.



Shri Siddhartha Prasad, learned counsel for the respondents states that as and when any such fresh request is received, the same shall be considered and decided by the appropriate authority expeditiously and preferably within a period of two months or on such extended period as is stipulated under the agreement.

The petition stands disposed of with the aforesaid liberty.

Interlocutory Application(s), if any, stands disposed of.

It is made clear that we have not expressed any opinion on merits of the matter. All issues are left open.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

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