

25-06-2021

ct no. 13

Sl.82

pk/akd

**WPA 10759 of 2021
(Through Video Conference)**

**Ma Chandi Durga Cement Limited and another
Versus
Damodar Valley Corporation and others**

Mr. Jishnu Chowdhury,
Mr. Suchayan Banerjee,
Ms. Moumita Ghosh

... for the petitioners

Mr. Jaydip Kar,
Mr. Prasun Mukherjee,
Mr. D. Agarwal

... for the D. V. C.

The writ petitioners have applied to the licensee, D. V.C. for power load upto 4.500 MVA. in addition to the existing 1.500 MVA that it was enjoying. The petitioners were required by the DVC to put in the security deposit for the additional load, being a sum of Rs.2,17,28,809/-.

The petitioners approached the licensee for accommodation to put in the aforesaid security deposit for the increased load in 9 installments. The licensee has in a meeting with the petitioners declined to grant 9 installments and instead granted four instalments. It is submitted by the counsel for the petitioners that the licensee was obliged to

give sufficient reasons to support its decision. It is further submitted that there is an incorrect recording in the order that the petitioners had already agreed to six instalments. The petitioners upon receipt of the order protested against the incorrect recording.

It is, therefore, prayed that the impugned order be set aside and the issue be remanded back to the licensee for consideration afresh.

It appears from records that the petitioners also have a history of defaulting on electricity bills and have often sought installments to repay the same.

Relief is sought by the petitioner against the authority under Article 12 of the Constitution of India in a purely private commercial matter. When the State is engaged in such commercial activities, very limited interference is called for, by the writ Court under Article 226 of the Constitution of India. Such activities are guided by terms of the contract and/or the Commercial assessment of such instrumentality. It must be borne in mind that such state entities are required to compete with private parties, that are not bound by such stringent rules.

It is the licensee alone that can take a commercial decision as to under what terms

and in what instalments, power would be supplied to the petitioners. This Court is of the view that any interference with the commercial decisions more so of an instrumentality of the State is undesirable and is permitted only in extremely rare cases. This Court does not find that the facts of the instant case are rare or exceptional.

For the reasons stated herein above, the writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertaking.

(Rajasekhar Mantha, J.)