

13.12.2021.
Court No.13
Item No. 46
ap

**W.P.A. No. 17182 of 2021
(Through Video Conference)**

**M/s. Essal Infrastructure Pvt. Ltd. & Anr.
Versus
The Coal India Limited & Ors.**

Mr. Srijib Chakraborty,
Mr. Sunny Nandy,
Mr. Subha Pathak.

...For the petitioners.

Mr. Syed Nurul Arefin.

...For the ECL.

Affidavit-of-service filed in Court today be taken
on record.

The writ petitioners are aggrieved by absence of
reply to a letter dated 21st August, 2021.

It appears from the writ petition that the
petitioners entered into a contract for dealing in coal
issued by the respondent ECL. There are some issues
with regard to the performance of contract by the
petitioners. Admittedly, a third party was engaged to
complete portion of the said contract. The petitioners
sought closure of the contract under Work Order No.
562 dated 26th October, 2015. The respondents have
not replied to the same.

The petitioners thereafter on 16th September,
2021 raised a demand and have filed a list of claims
with the respondent for a total sum of Rs.45.87 crores
under five different heads.

Counsel for the petitioners would submit before this Court that notwithstanding the fact that the relationship between the parties is purely contractual in nature, the refusal on the part of the respondents to even reply to a request and/or representation from the petitioners, can be redressed under Article 226 of the Constitution of India. It is also submitted that the contract has expired in December, 2018. Reference is also made to two decisions i.e. ***ABL International – Vs. – ECGC*** reported in **(2005) 10 SCC 459** and ***Surya Construction – Vs. – State of Uttar Pradesh*** reported in **(2019) 16 SCC 794**.

This Court has carefully considered the petitioners' arguments. The letter dated 21st August, 2021 clearly indicates that the same is in the nature of a letter of demand against the respondents under a private contract. The same is followed up by a statement of and/or list of claims Rs.45 crores is raised before the ECL.

This Court is of the view that as to what stand is to be taken the ECL in respect of such demand is a purely commercial decision and in the realm of private contract. This Court cannot compel the ECL to respond to the same. The petitioners have remedies in Civil law against any inaction or refusal or denial by the respondents.

In that view of the matter, this Court is of the view that no interference is called for under Article 226 of the Constitution of India in the facts of the present case.

It is made clear that this Court has not entered into the mutual rights and obligations of the parties and the same may be determined before an appropriate forum in accordance with law.

In view of the above, the instant 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 duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)