

S/L No.30
20.12.2021
Ct-13
(AD)

(Through Video Conference)

WPA 17422 of 2021

Shahi Electric Engineering Co. Private Limited
vs.
Indian Institute of Technology, Kharagpur & Anr.

Mr. Sourojit Dasgupta
Mr. Ashis Kumar Mukherjee
Mr. Saurabh Prasad

...for the petitioner.

Mr. R.N. Majumder
Mr. S.M. Obaidullah
... for the Indian Institute of Technology, Kharagpur.

The writ petitioner is aggrieved by the fact that a contract for electrical works associated with the construction of new building for liquid helium plant at Indian Institute of Technology, Kharagpur (IIT) is subsisting and, petitioner, until 15th February, 2022 is being interfered with by the respondents.

It is submitted that the contract has not terminated as yet. Notwithstanding the above, the respondents have invited tenders and awarded the said work to a third party. Counsel for the petitioner submits that he is entitled to injunction against the respondent authority, from taking away his work until 15th February, 2022.

Mr. R.N. Majumder, learned Counsel for the IIT, Kharagpur submits that the petitioner has remedy of arbitration under the contract and hence, the writ petition should not be entertained.

This Court is of the view that whether the respondent has terminated the contract or not is itself a disputed question of fact. What is, however, before this Court is that the contract has been awarded to a third-party after a fresh NIT. This Court cannot interfere with the same, since there are disputed questions of fact involved, and the petitioner may have a remedy in the form of damages. Specific performance of such contract is not permitted, much less under Article 226 of the Constitution.

In that view of the matter, the writ petition shall stand dismissed reserving liberty to the petitioner to raise all claims against the respondents in accordance with law, before an appropriate forum that may, *inter alia*, have been provided under the contract.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Rajasekhar Mantha, J.)