

08.11.2021
Item No.17
Crt.No.11
K.B.

M.A.T. 659 of 2020
with
I.A. No. CAN 1 of 2020

Surya Alloy Industries Limited and another
-Vs-
East Central Railway & Ors.
(Via Video Conference)

Mr. Jaydip Kar
Mr. Tanmoy Chakraborty
Mr. Siddharth Shroff
... For the appellants.

Mr. Kashinath Roy
... For the Respondent Nos.1 to 5.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

Mr. Roy, Learned Counsel appearing for the East
Central Railway (*ECR*)/Respondents produces copy of a
document dated 11th August, 2020 addressed to the
appellant No.1/Company. It is submitted that the
document has been digitally signed by the Chief Engineer,
ECR in faithful compliance of the order of the Hon'ble
Single Bench dated 30th June, 2020.

Learned Counsel for the Railways reiterates the
position that the appellant No.1/Company failed to
submit the Bank Guarantee (*BG*) within time and thus
stood debarred from participating in the tender.

Mr. Kar, Learned Counsel appearing for the
appellants, disputes the position taken by Mr. Roy. It is
submitted that the *BG* was submitted within time and,

following the terms of the tender the Bank had mailed a copy of the *BG* to the *ECR*.

It is further submitted that the order dated 11th August, 2020 of the Chief Engineer, *ECR* was passed without granting the appellants an opportunity of hearing as directed by the order dated 30th June, 2020 (*supra*). The appellants claim that they be granted the opportunity of explaining the status of the *BG* for a correct appreciation of facts by the Chief Engineer.

Having heard the parties and considering the materials placed, this Court is of the view that the ends of justice shall be served in the event the appellants are permitted a detailed hearing by the Chief Engineer, *ECR*.

Accordingly, the Chief Engineer, *ECR* shall grant the appellants an opportunity of hearing. The appellants shall be entitled to be represented by their Learned Counsel and rely on documents at the hearing, if and so advised.

Upon such hearing and on examination of the materials placed, the Chief Engineer, *ECR* shall be entitled to pass appropriate orders.

Let the above directed exercise be completed not later than a period of two weeks from the date of communication of this order

It is made clear that this Court has not gone into the merits of the case.

In the light of the above order passed, the order impugned dated 11th August, 2020 remains permanently stayed.

Both the appeal and application respectively being **MAT 659 of 2020** with **I.A. No. CAN 1 of 2020** stand accordingly **disposed of**.

In view of the direction passed above, the Writ Petition being **W.P. No.6694 (W) of 2020** also stands **disposed of**.

Urgent photostat certified copy of this order, if applied for, be handed over to the parties on compliance of necessary formalities.

All parties shall also act in terms of a copy of the order downloaded from the official website of this Court.

(Kesang Doma Bhutia, J.)

(Subrata Talukdar, J.)