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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-09-2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.14129 of 2015

And

MP No.1 of 2015

DCL Software Limited,
Represented by its Director,
Asian Harmony,
14C, 5th Lane,
Indira Nagar, Adyar,
Chennai - 600 020.

..Petitioner

vs.

1. The Chief Electoral Officer (IT)
and Deputy Secretary to Government,
Public Election II Department,
Secretariat,
Chennai - 600 009.

2. The District Collector,
Tiruvallur.

3. The District Collector,
Chennai.

4. The Tahsildar,
Velacherry Taluk,
Chennai - 600 103.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the proceedings RC8987/2010/E1 dated 29.07.2010 on the file of the second respondent and the consequential distraint warrant No.B3/13404/14 dated 09.01.2015 issued by the fourth respondent and quash the same as illegal, against law.

For Petitioner	:	Mr.K.V.Ananthakrushnan
For Respondent-1	:	Mr.Niranjana Rajagopalan
For Respondents 2 to 4	:	Mr.C.Kathiravan, Government Advocate.



O R D E R

The order impugned dated 29.07.2010 passed by the District Collector, Tiruvallur, states that an amount of Rs.4,14,803/- is liable to be paid to Government Account as per the audit raised by the Accountant General. Thus, the petitioner was requested to refund the abovementioned excess amount by way of cheque or DD in favour of Personal Assistant (Elections) to Collector, Tiruvallur payable at Tiruvallur. Challenging the said order, the present writ petition is filed.

2. The learned counsel appearing on behalf of the petitioner states that the order passed by the District Collector, Tiruvallur is untenable as it violates the conditions stipulated in the contract.

3. Perusal of the contract of the year 2006 would reveals that in case of any dispute, claims and differences arising out of or in connection with this, the matter will be referred to an Arbitrator mutually agreeable to both parties, who will be the Arbitrator and his decision will be final and binding on both the parties as per the provisions of the Arbitration and Conciliation Act, 1996. The place of Arbitration shall be at Chennai.

4. When the parties agreed for an arbitration and there is a clause in the contract, this Court cannot adjudicate the disputed issues between the parties. The issues raised in this writ petition required an adjudication with reference to the documents and the evidences as well as the grounds raised by the petitioner. Thus, the petitioner, the District Collector, Tiruvallur and the District Collector, Chennai have to opt for arbitration proceedings as per the agreement.

5. The learned counsel for the first respondent and the learned Government Advocate for respondents 2 to 4 contended that the delay may be condoned and an Arbitrator may be appointed for the purpose of resolving the disputes between the parties.

6. In view of the said submission made by the learned counsel for the first respondent and the learned Government Advocate for respondents 2 to 4, the delay occurred due to pendency of the writ petition stands condoned and the parties are permitted to opt for an arbitration and for the appointment of an Arbitrator, the matter is placed before the High Court, the Arbitration Centre, who in turn may appoint an Arbitrator with the consent of the parties and such an Arbitrator appointed shall adjudicate the disputes between the parties and resolve the same.



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7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chief Electoral Officer (IT)
and Deputy Secretary to Government,
Public Election II Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Tiruvallur.
3. The District Collector,
Chennai.
4. The Tahsildar,
Velacherry Taluk,
Chennai - 600 103.

+1CC to Mr.K.V.Ananthakrushnan, Advocate, Sr.No.48644
+1CC to M/s.G.R.Associates, Sr.No.48671
+1CC to the Government Pleader, Sr.No.49075

WP 14129 of 2015

SR-II (CO)
K.RK. (05.10.2021)