



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13681 of 2016

Kohinoor Educational Services Pvt., Ltd.,
Salem Airport
Salem
Tamil Nadu 636 309
Having its Registered Office at No.5, VIP Road,
Koh-e-Fiza, Bhopal,
Madhya Pradesh
Represented by its Director,
Mr.H.Shibu

...Petitioner

Vs

1. The Airport Appellate Tribunal
Safdarjung Airport
New Delhi - 110 003
2. M/s.Airport Authority of India,
Salem Airport,
Salem - 636 309
Tamil Nadu

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call upon all the records on the file of the 1st respondent relating to the Judgment in Appeal No.10/CP/AAT/2013 dated 18.3.2015 and quash the same and consequently direct the 2nd respondent herein to permit the petitioner to run the flying school set up by it in the premises of the 2nd respondent.

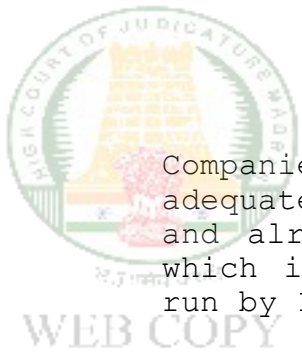
For Petitioner :Mr.Swarnam J Rajagopalan

For Respondents:R1 - Tribunal
R2 - Mr.V.Ramesh

O R D E R

The order passed by the Airport Appellate Authority, New Delhi dated 18.03.2015 is under challenge in the present writ petition.

2. The writ petitioner is a Company, registered under the



Companies Act, 1956. The petitioner states that they had adequate experience in running of private flying training school and already running a flying school in Guna (Madhya Pradesh), which is approved by Directorate General of Civil Aviation and run by IMT Society.

3. The grievances of the writ petitioner is that they entered into a contract with the 2nd respondent / M/s. Airport Authority of India on 03.04.2009. The period of contract was 5 years and the petitioner was permitted to run the training School at Salem. On account of allegations regarding arrears of payment of license fee, show cause notice was issued. The said show cause notice dated 23.09.2011 was challenged by the petitioner in W.P.No.22965 of 2011. This Court elaborately adjudicated the issue with reference to Clause 20 of the agreement dated 03.04.2009 and dismissed the writ petition on the ground that the petitioner has to invoke the Arbitration Clause agreed between the parties under the Arbitration and Conciliation Act, 1996. The contract between the petitioner and the 2nd respondent was terminated and an eviction order was passed. The petitioner preferred an appeal before the Airport Appellate Tribunal, New Delhi in Appeal No.10/CP/AAT/2013 and after adjudication of the issues, the Tribunal passed an order on 18.03.2015. The said order is under challenge in the present writ petition.

4. The learned counsel for the petitioner made a submission that the basic principles are violated and the procedures followed are directly in violation of the principles of natural justice. The petitioner was not provided with the opportunity as contemplated under the provisions of the Act and thus, the order impugned is liable to be set aside.

5. This Court is of the considered opinion that the show cause notice was issued to the petitioner on the ground that the petitioner was a defaulter in payment of license fee to the Airport Authority of India. Subsequently, the contract was terminated. The agreement provides Arbitration Clause. Under those circumstances, the disputes ought to have been adjudicated by invoking the provisions of Arbitration Clause. Contrarily, the petitioner filed a writ petition and the writ petition was also dismissed on 11.01.2012 and thereafter, approaching the Tribunal. However, the Tribunal adjudicated all those issues on merits and rejected the contention raised by the petitioner. Under these circumstances, this Court cannot conduct an adjudication in respect of the terms and conditions of the contract, which requires examination of documents and evidences.

6. This apart, the period of contract itself expired in the year 2014 itself and the contract was terminated in the 2011 and if any grievances exists as stated in the order passed by this



Court in W.P.No.22965 of 2011, the petitioner has to invoke the Arbitration Clause or approach the competent Civil Court of Law for the purpose of resolving the issues. In the event of approaching such Forum or Court of law, such Court shall taken into consideration the period, during which, the writ petition was pending before the High Court for the purpose of condoning the delay, if any application to condone the delay is filed.

7. The grounds raised by the petitioners are to be adjudicated on merits and with reference to the documents and evidences made available.

8. The learned counsel for the 2nd respondent / Airports Authority of India made a submission that pursuant to the eviction order, possession was taken over by the Airport Authority of India and another operator was engaged to run the training school.

9. This being the factum, at this length of time, the relief as such sought for cannot be considered and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kak

To

1. The Airport Appellate Tribunal
Safdarjung Airport
New Delhi - 110 003
2. M/s.Airport Authority of India,
Salem Airport,
Salem - 636 309
Tamil Nadu

W.P.No.13681 of 2016

RR(CO)
RGA(05/01/2022)