

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11826 of 2021

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Jai Mata Dee Construction Through its Proprietor Devendra Kumar, (Male)
Aged about 58 Years, S/o Late Ramchandra Thakur, Regd. Office at and R/o
Village Serena, P.S. Kanti, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Director of Industries-Cum-Chairperson, Micro and Small Enterprises Facilitation Council Office of Director of Industries, 2nd Floor, New Secretariat, Patna - 800015.
3. The Joint Director, Department of Industries, Govt. of Bihar, Patna.
4. The Chief Executive Officer, KBUNL/NTPC, Kanti, Muzaffarpur, Bihar, PIN 843130.
5. Managing Director, Paltech Cooling Towers and Equipments Ltd. At B- 604, Sushantlok, Phase I, Gurugram, Haryana.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (Ag)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 11-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For setting aside the impugned order dated 22/01/2020 passed in Reference No.01/2017 issued by respondent no.2/ Council on account of its illegal observation quoted as “in previous meeting, Council gave last chance to applicant to place his claim in a proper format with all supporting documents before the Council within ten days with

a copy to the respondent, failing which the case will be decided by the Council based on available documents” by which the claim of the petitioner has been rejected in limine by overlooking claim-records and under influence of respondent no.5.

(ii) For issuing direction to the respondents no.2 to proceed with its agenda dated 17/10/2019 in furtherance of letter No.4158 dated 24/10/2019; letter No.4011, Dated 18/10/2019; order dt 17/10/2019; 06/08/2019; by which the respondent no.2 has referred the claim of the petitioner to the Arbitrator namely Sri Ravi Bhushan Prasad Sinha, Joint Industry Director, Bihar Patna. The provision of mandatorily Arbitration proceeding U/s 18(3) of the MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006, has been violated arbitrarily, as the arbitral proceedings has not been concluded till the date. But the respondent no.2 has without awaiting the Arbitral award has arbitrarily and illegally revoked its own previous order letter No.2780 dated 09/08/2018 vide order dated 19/11/2019 passed in Reference No.01/2017 and dismissed the claim of the petitioner under the undue influence of the respondent no.5.”

The dispute between the parties has already been referred to the named Arbitrator in terms of agreement under the contract and the Arbitrator has already entered reference for adjudicating the dispute between the parties, as such, present writ petition is not maintainable.

The writ petition is, accordingly, dismissed.

However, petitioner is at liberty to take recourse to such other remedies as available in law, as also remedies available in terms of the agreement entered between the parties

to resolve the dispute arising during the execution of contract.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2022
Transmission Date	NA