

29.03.2022
Court No.13
Item No.52
AP

WPA 20666 of 2021

**Goutam Mukherjee
Vs.
Union of India and Ors**

(Through Video Conference)

Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chattopadhyay
Mr. Santanu Maji
Ms. Snigdha Saha
Mr. Pronay Basak
Mr. S. Das
Ms. Trisha Rakshit

... For the petitioner.

Mr. Sourav Mondal

... For the C.L.W.

The writ petitioner is aggrieved by termination of a contract dated 13th November 2021 for construction of iron fencing in front of Environment Park at Chittaranjan, being contract agreement dated 10th November 2020. The petitioner has invoked the writ jurisdiction of this Court challenging the propriety of such termination.

Counsel for the petitioner would rely upon the decision of the Supreme Court in the case of ***Uttar Pradesh Power Transmission Corporation Ltd. and Anr. Vs. CG Power and Industrial Solutions Limited and Anr.*** reported in ***AIR 2021 SC (Civil) 2017***, particularly reliance is made on paragraph 65, 66, 67, 68 and 69.

This Court notices that Clause 63, 63.1 and 64 of the contract provide for dispute settlement mechanism which involves reconciliation, conciliation and arbitration.

Clause 63.1 of the contract also specifies matters, which have assumed finality at the instance of the railways. This Court is of the view, having considered the facts and circumstances of the case that to assess the propriety of the termination, disputed question of facts would be required to be gone into.

The defence that the petitioner offers that he was prevented from performing the contract for reasons which include, inter alia, the Covid-19 pandemic, is also required to be examined by trial in evidence.

For the reasons stated hereinabove and particular reference to paragraph 69 of the said U.P. Power Case (supra), this Court is not inclined to exercise discretionary relief under Article 226 of the Constitution of India to entertain the writ petition. The petitioner may avail appropriate alternative remedies as may be available to him in accordance with law.

With the aforesaid observations, the writ petition is disposed of.

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

(Rajasekhar Mantha, J.)