

Ct. 05
Item No.26
22.11.2022
(Suvendu)

WPA 21341 of 2022

**Shiv Shakti Steel & Tubes
Vs.
West Bengal State Electricity
Transmission Company Limited & Ors.**

Mr. Kishore Datta
Ms. Sumita Shaw

.....for the petitioner

Mr. Radhika Misra

.....for the respondent no. 4

Mr. Supriyo Chattopadhyay
Mr. Sudip Kr. Maiti

.....for the respondent nos. 1-3

The factual nitty-gritties in the present matter are such that the writ court is not in a position to interfere in the matter. The case sought to be made out by the petitioner simply is this.

The petitioner claims to have purchased transformers containing transformer oil at a price of Rs. 4.4 crores in an auction floated by WBSETCL and facilitated by Mjunction. The petitioner complains that the petitioner gave a particular offer price on the basis of transformers containing transformer oil but found that the transformers were drained of oil at a subsequent stage. The petitioner alleges that the oil was

drained by WBSETCL at the time when the transformers were in the custody of WBSETCL and after the petitioner had paid the purchase price for the same. The evidence in support of such allegation are two letters written by the petitioner to Mjunction alleging that WBSETCL had drained the oil from the transformers.

Learned counsel appearing for the petitioner submits that the fact of the respondents not denying such allegation would show that there is substance in the allegation.

Learned counsel appearing for Mjunction submits that Mjunction is simply a facilitator and had nothing to do with events subsequent to the auction.

Learned counsel appearing for the WBSETCL opposes the allegation and submits that the offer price of the petitioner were made on the basis of the transformers without the oil. It is also denied that WBSETCL had anything to do with the allegations made by the petitioners.

The issue in the writ petition is whether the petitioner should be compelled to pay Rs. 4.4 crores for transformers which was subsequently drained of the transformer oil. This would require a detailed enquiry into the allegations and counter allegations. It would be impossible for the writ

court to call for evidence which would conclusively show, if at all, that i) the transformers were sold to the petitioner with the oil and ii) WBSETCL was responsible for draining the oil after the transformers were purchased by the petitioner. This is a fit matter where the parties should be referred to arbitration and more so when the tender terms contain an arbitration clause. The arbitration clause is sufficiently comprehensive allowing for all disputes arising out of or relating to the agreement to be resolved through arbitration.

WPA 21341 of 2022 is disposed of without any order as to costs.

Parties may resolve their disputes through arbitration if so advised.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)