

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.201 of 2023

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Tarkeshwar Prasad Yadav Son of Shri Saheb Rai, resident of Village -
Tejpura, P.S. Madhowrah, District Saran at Chapra.

... .. Petitioner/s

Versus

1. The Union of India through the Chief Account Officer (CAO), Indian Railway, East Central Railway, Diesel Locomotive Factory, Marhowra Chamber Bhawan, Patna - 1.
2. The Assistant General Manager, Webtec Locomotive Private Limited (erstwhile GE Diesel Locomotive Private Limited) Village - Bajid Bhorahia, Thana No. 45 and Talpuraina Thana No. 47 and Chanda, Tehsil- Marhowra, District - Saran (Chapra).
3. The Regional Indirect Sourcing Leader, Webtec Locomotive Private Limited, Morhowra, District - Saran (Chapra).
4. The Head Plant Incharge, Webtec Locomotive Private Limited, Morhowra, District - Saran (Chapra).
5. Lead CAPEX Sourcing Specialist Getter 829BB Wabtec Locomotive Pvt. Ltd. Morhowrah, District - Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Ranjani Kumari, Advocate Mr. Vijay Kumar, Advocate
For the UOI	:	Mr. Anshman Singh, C.G.C.
For the Respondent	:	Mr. Kumar Manish, Advocate Mr. Ankit Katriar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 19-04-2023 In the instant petition, petitioner has prayed for the
following relief:-

*“1. That this is an application for issuance
of an appropriate writ(s), order, direction,
particularly in the nature of writ of Mandamus,
directing and commanding the concerned
respondent authorities to refund the security
amount of Rs. 14,92,036/- (fourteen lac ninety*



two thousand and thirty six) which was deposited by the petitioner on dated 28.04.2022 against the bid inviting to fill-up the tender by respondent no.2 for lifting of scrap materials from aforesaid company as mentioned in the tender documents, but due to heavy rain & flood, the auction of the scrap was not held due to rainy season and water logging raised within the premises of the company due to which, the petitioner could not lift scrap materials within the stipulated period, but authority concerned. blacklisted the company of the petitioner malafidely and arbitrarily, despite the request has been made by the petitioner before the higher authority concerned to extend the time for lifting the scrap material but the same was neither accepted nor his security money refunded by them, which is illegal and not sustainable in the eye of law.

For issuance of any other relief or reliefs for which the petitioner is found entitled too.”

02. Perusal of the record, it is evident that there are certain disputed issues insofar as refund of security amount of Rs. 14,92,036/- (fourteen lac ninety two thousand and thirty six) pursuant to the depositing on behalf of the petitioner and further action taken by the concerned-respondent. The disputed issues in a contractual matter cannot be adjudicated by a Court under Article 226 of the Constitution of India as held by the Apex Court in the case of ***Shubhas Jain Vs. Rajeshwari Shivam and Others***, reported in ***2021 SCC OnLine SC 562*** [Para-26].

03. Petitioner is stated to have been black-listed, however, he has not assailed the same.



04. Accordingly, the writ petition stands dismissed, reserving liberty to the petitioner to invoke appropriate remedy in terms of Clause IX (Disputes/Arbitration) of Annexure-R/1 to the counter affidavit filed on behalf of respondents.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Himanshu/-

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