

18.10.2023
Item No.4
PG/RP
Ct. No.1

M.A.T. 588 of 2022
With
IA No. CAN 1 of 2022

Paraxir India Private Limited
Vs.
Central Vigilance Commissioner & Ors.

Mr. S.N. Mookherjee, Ld. Sr. Adv.
Mr. S. Panda
Mr. Diptendra Nath Chaudhuri
Mr. Shubhrajyoti Mookherjee
.....for the Appellant
Mr. L.K. Gupta, Sr. Adv.
Mr. Arjun Ray Mukherjee.....for the respondent no. 2

1. This intra-Court appeal by the writ petitioner is directed against the order dated 15.03.2022 in W.P.A. 21351 of 2021. The writ petition was filed by the appellant challenging a tender allocation process for setting up Cryogenic Oxygen manufacturing facility at Durgapur Steel Plant with a capacity of 1250 TPD on a Build-Own-Operate basis. The writ petition has been dismissed by the learned Single Bench making certain adverse observations against the appellant and also imposing a cost of Rs. 5,00,000/- (Five Lacs only).
2. From the facts as placed by the learned senior advocate appearing for the appellant and as could be seen from the facts recorded in the

impugned order, the appellant had approached the learned writ Court at the stage when notice inviting expression of interest was published by the Steel Authority of India Limited/respondent and there were five persons, who had expressed their interest, one of which is the appellant before this Court.

3. The appellant appears to have been aggrieved by a corrigendum issued by the Steel Authority of India Limited to the notice inviting expression of interest and which, according to the appellant, was so drafted to benefit a third party/private party. The learned Single Bench after taking note of the various decisions of the Hon'ble Supreme Court held that the relief sought for cannot be granted. One other party, who was aggrieved by the same impugned order viz. Inox Air Products Private Limited had filed an intra-Court appeal in M.A.T. 605 of 2022. Though the appeal was allowed, it was only expunging certain observations made by the learned Single Bench in paragraphs 43 to 45 of the order. The net effect was the order and direction issued by the learned Single Bench in other respects was affirmed in M.A.T. 605 of 2022.
4. After having gone through the facts of the case and also taking note of the submissions of Mr.

Gupta, learned senior advocate appearing for the Steel Authority of India Limited that fresh work order has already been issued to a third party, who has been granted lease to set up the plant within the Durgapur Steel Plant and the civil construction is over and the plant will be established shortly, this Court is of the view that by efflux of time, nothing would survive for adjudication in this appeal. Apart from that, the learned Single Bench has rightly noted the various decisions of the Hon'ble Supreme Court with regard to judicial review in such matters. However, considering the facts and circumstances of the case, we are of the view that the adverse observations made against the appellant in paragraphs 43 to 45 needs to be expunged, more so, when the appellant has not been put on notice by the learned Single Bench before making such adverse observations.

5. Considering the facts and circumstances of the case, we are also of the view that this will not be a case, where exemplary cost of Rs. 5,00,000/- (Five Lacs only) should be imposed. Therefore, while affirming the order passed by the learned Single Bench, the appeal is allowed to the extent by expunging the adverse observations made by the learned Single Bench in paragraphs 43 to 45

of the impugned order and also deleting the cost imposed on the appellant in paragraph 47 of the impugned order.

6. With the aforesaid observations, the appeal stands disposed of.
7. No costs.
8. Urgent Photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)