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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

56 WRIT PETITION NO.8800 OF 2023

M/S KING SECURITY GUARDS SERVICE PVT LTD,  
THROUGH ITS DIRECTOR SHRI SANJEEV KUMAR RAI  
VERSUS  
THE UNION OF INDIA, MINISTRY OF RAILWAYS AND  
OTHERS

....

Mr Kedar Warad, Advocate for Petitioner;  
Mr Rahul B. Bagul, Standing Counsel for Respondents

**CORAM : RAVINDRA V. GHUGE  
AND  
Y. G. KHOBRAGADE, JJ.**

**DATE : 25th July, 2023**

**PER COURT:**

1. We have heard the learned Advocate for the Petitioner, on termination of it's contract by the Railways, who has taken us through the petition paper-book and has also cited the following two judgments :

- (I) State of U.P. Vs. Sudhir Kumar Singh and others, 2020 SCC OnLine SC 847; and
- (II) B. S. Ispat Limited Vs. Union of India, thr. it's Secretary, Ministry of Coal and another, 2023 SCC OnLine Bom 469

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2. The issue before us is as regards the deficiencies in the performance of the 'contract for service' (not of service) with the Indian Railways on the location, for which the contract awarded to the Petitioner, has been terminated.

3. The first seven days notice dated 17/03/2023 was issued to the Petitioner. Another seven days performance notice dated 30/05/2023 was issued to the Petitioner to ensure that the terms of the contract are fully implemented and the filth and rag picking is done properly and the coaches are supplied water as per the requirements. Since the Petitioner purportedly fell short of such services, another 48 hours notice, dated 21/06/2023, was given to the Petitioner. The Petitioner had earlier replied to the notice, in which 7 days were granted for achieving the performance. After the 48 hours notice was issued, as the Railways found that the performance is not achieved, the contract was terminated for deficiencies in service.

4. We called upon the learned Advocate for the Petitioner, as to whether the Writ jurisdiction of this Court can be exercised for resorting to a fact finding enquiry as regards, whether the various terms of the contract, more particularly,

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pertaining to the cleanliness to be maintained, filth and rag picking and supplying water to the coaches, were fulfilled and whether this would require recording of evidence, to prove to the contrary, in order to disprove the view taken by the Railways.

5. The view taken by the Hon'ble Supreme Court in the State of U. P. Vs. Sudhir Kumar (supra) is distinguishable on the facts of this case. Similarly, the view taken by this Court in B. S. Ispat Ltd. (supra), to which one of us is a party (Y. G. Khobragade, J.), is also on a different issue pertaining to furnishing of a bank guarantee. Prima facie, these two judgments would not be applicable to this case.

6. We, therefore, called upon the learned Advocate for the Petitioner to take instructions, as to whether the Petitioner would desire to avail of the civil remedy in the form of a suit for damages or a suit for proving that the view of the Indian Railways is bad. He submits on instructions that, the Petitioner desires that, this petition may be considered by this Court.

7. We find that, the Petitioner will have to lead oral and documentary evidence to prove, whether the employees of the Petitioner were wearing appropriate uniform (as is one of the

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allegations), whether their rag pickers are indulging in rag picking and clearing the filth to the satisfaction of the Indian Railways, whether the employees of the Petitioner were filling water in the various coaches, which is termed as 'Round the Clock Quick Watering of Train Coaches at Railway Station, Bhusawal', whether the platforms were properly cleaned up, etc. These are the disputed issues, which would require recording of oral evidence.

8. In view of the above, we do not find that this petition could be entertained in the Writ jurisdiction of this Court. **The same is, therefore, dismissed.**

9. Needless to state, the Petitioner is at liberty to avail of a remedy before the Civil Court. All contentions are kept open.

**(Y. G. KHOBRADE, J.)**

**(RAVINDRA V. GHUGE, J.)**

sjk