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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

SALUNKE
J V

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WRIT PETITION NO. 1560 OF 2023

Pingle Builders Private Limited	}	Petitioner
versus		
Union of India & Anr.	}	Respondents

Mr. Surel Shah with Mr. Siddha Pamecha, Mr. Akhil, Mr. Shubhankar Pandey and Mr. Raj Dani i/b. Thodur Law for the petitioner.

Mr. Niranjan Shimpi for the respondent (UoI).

**CORAM: S. V. GANGAPURWALA, Act.CJ.&
SANDEEP V. MARNE, J.**

DATE: FEBRUARY 10, 2023

P.C.:

- 1.** The reply affidavit tendered by Mr. Shimpi, learned advocate, for respondent (UoI) is taken on record.
- 2.** The petitioner has entered into a contract with the respondents for certain REGT (PH-I) at Deolali. The said contract is cancelled and a fresh tender is issued by the respondents. The petitioner is challenging the action of the respondents cancelling the original tender so also issuing fresh tender.
- 3.** We have heard Mr. Shah, learned advocate, for the petitioner and Mr. Shimpi, learned advocate, for the respondent (UoI).
- 4.** During the course of arguments, it is pointed out that the petitioner had already availed remedy under the Arbitration and Conciliation Act, 1996 (for short "the Arbitration Act") by filing an application under section 9 thereof. The said application was rejected. The petitioner was permitted to participate in the tender

process. The Union of India filed an appeal before this Court. This Court disposed of the said appeal allowing respondent no. 2 (Swapnil Electrical and Contractors) to participate in the tender process.

5. Once the petitioner has already availed remedy under the Arbitration Act pursuant to the clause in the contract and having failed under section 9 of the said Act, it will not be open to the petitioner to again challenge the same by filing a writ petition.

6. In light of that, we are not inclined to entertain the writ petition. The petitioner may take proceedings under the Arbitration Act as may be permissible in law.

7. With the above observations, the writ petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)