



O.A.No.948 of 2023

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C.SARAVANAN, J.

Mr.A.Edwin Prabhakar, learned Special Government Pleader assisted by Mr.R.U.Dhinesh Rajkumar, learned Additional Government Pleader takes notice on behalf of the respondent.

2. The case was listed after giving a slip for Lunch Motion. The case was argued in the forenoon and thereafter passed over since this Arbitration Application was filed in the background of the order passed by the learned Single Judge of this Court in W.P.No.19772 of 2023 on 17.10.2023, which is now a subject matter of the Writ Appeal before the Hon'ble Division Bench of this Court in W.A.No.3091 of 2023 on 04.12.2023.

3. A reading of the Arbitration Clause in the contract indicates that there is no scope for ressolving the dispute through arbitration and if at all a claim is to be made by the petitioner against the respondent, it has to be before the Competent Civil Court. Relevant Clause reads as under:-



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“5. Arbitration Clause

- i. *In case any dispute or difference between the parties to the contract either during the progress or after the completion of the works or after determination, abandonment or breach of the contract or as to any other matter or thing arising there under except as to the matters left to the sole discretion of the Executive Engineers under clause 18, 20, 25-3, 27-1, 34, 35 and 37 of the general condition of the contractor as to the withholding by the Executive Engineer or the payment of any bill to which the contractor may claim to be entitled.*

*Then either party shall forthwith give to the other notice of such dispute or difference and such dispute or difference shall be and is hereby referred to the arbitration of the **Superintending Engineer(RD), Office O/o DRD & PR Chennai** (Mentioned in the “Articles of Agreement” (here in after called the Arbitrator)) in case where the value of claim is less than and up to Rs.50,000/- (Rupees Fifty Thousand Only).*

In case where the value of the claim is more than Rs.50,000/- the parties will seek remedy through the competent civil court. (G.O.Ms.No.253 P.W.D dated 24.02.1981).

- ii. *If at any subsequent to the execution of this arrangement, Government materials other than those specified in the agreement are supplied to the contractor for use of the work, they will be charged at the market value prevailing at the time of supply of stock or issue rates, whichever*



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is higher. The contractor will be informed in writing of this charge and he should intimate in writing the rate, which he demands for finishing the work in view of the fact that he is to use Government materials. No centage of incidental charges will be borne by the Government in connection with the supply of the materials referred to in this paragraph."

4. In any event, *prima facie* it appears that the termination of the contract of the petitioner by the Impugned Order dated 14.06.2023 bearing reference: ந.க.எண்:2000/2021/ஆர.2 appears to be without hearing the petitioner.

5. The petitioner has already opted to challenge the same before the Court under Article 226 of the Constitution of India. The petitioner has to work out his remedy either before the Hon'ble Division Bench of this Court by filing a Writ Appeal or filing a Civil Suit in terms of the above Clause.

6. In view of the above, the Original Application is dismissed.

10.11.2023

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