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10.04.2024
Mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 8167 of 2024

Svaryu Energy Limited
Vs.
Union of India & Ors.

Mr. Pranit Bag,
Mr. Anuj Kumar Mishra,
Mr. Sumit Mishra,
Mr. Mukund Puranik
... for the petitioner

Mr. Sahasrangshu Bhattacharjee,
Mr. Loknath Chatterjee
...for the Union of India

Mr. Ayan Poddar,
Mr. Soham Dutta,
Ms. Khusboo Ruia
...for the respondent no. 2

1. Learned counsel for the petitioner is candid and submits that the writ petition was filed against allegedly premature termination of the petitioner before the outer extended limit for completion of the work to be done by the petitioner. It is submitted that the petitioner challenges the said termination on several issues as well as allied action.
2. However, since after the termination, the bank guarantee furnished by the petitioner has already been invoked and the possession of the space-in-question has been taken from the

petitioner. The petitioner now apprehends an action of blacklisting of the petitioner in immediate future.

3. Learned counsel for the petitioner, in his usual fairness, submits that since there is an arbitration clause, the remedy of the petitioner apparently lies before the appropriate court taking up matters under Section 9 of the Arbitration and Conciliation Act, 1996.
4. Accordingly, learned counsel seeks leave for the petitioner to avail of such remedy.
5. Although learned counsel for the respondent no. 2 controverts the allegations made by the petitioner on facts, this court does not intend to enter into the merits of the allegations and counter-allegations in view of the order proposed to be passed.
6. In terms of the prayer made by learned counsel for the petitioner, W.P.A. No. 8167 of 2024 is disposed of with liberty to the petitioner to approach the appropriate court under Section 9 of the Arbitration and Conciliation Act, 1996, pursuant to the arbitration clause in the agreement between the parties, for the self-same and consequential reliefs as claimed herein.

7. It is made clear that the merits of the allegations and counter-allegations have not been gone into by this court and it will be open to the court, which is approached under Section 9 of the 1996 Act, to decide on all issues independently in accordance with law.
8. Needless to say that all questions which may be raised by the parties, including the question of maintainability, shall be open to be taken by the petitioner as well as all the respondents before the court taking up the application under Section 9 of the 1996 Act, if filed by the petitioner.
9. There will be no order as to costs.
10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)