

Court No. 2

23.8.2024

(Item No. 6)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 19977 of 2024

Rajesh Kumar Sonkar

VS

Union of India & Ors.

Mr. Shyamal Sarkar

Mr. Ram Anand Agarwal

Mr. Kumar gupta

Mr. Rajesh Kumar Gupta

Ms. Nibedita Pal

Mr. Ananda Gopal Mukherjee

Ms. Sonam Ray

.... For the petitioners

Mr. Sukumar Bhattacharya

Ms. Sarda Sha

.... For the respondents

Affidavit of service filed in Court today is taken on record.

The petitioner deals with importing iodized salt through railway rakes. By virtue of a land lease agreement executed on June 13, 2024 at page 144 to the writ petition the petitioner has been allotted a land for storing salt.

Mr. Shyamal Sarkar, learned senior counsel being ably assisted by Mr. Kumar Gupta, learned counsel and Mr. Rajesh Kumar Gupta, learned counsel appearing for the petitioner submits that, though a constructed godown was allotted on the said land to the petitioner for storing salt but the godown is absolutely in a dilapidated and ruinous condition and practically open to sky. Salt is a soluble product. In this rainy season, the products are wasted and the business of the petitioner has been suffering. In

effect, the petitioner is not in a position to supply the salt to its ultimate suppliers with the proper quantity for which the petitioner has received its orders from his clients and ultimately the same would lead to civil consequences to be faced by the petitioner.

Drawing attention to a representation dated **July 14, 2024** at **page 145** to the writ petition learned senior counsel for the petitioner submits that, the said representation though was submitted before the Railway authorities but has not received any attention, yet.

In view of the above, the petitioner prays for mandamus in terms of the reliefs claimed in the writ petition.

Mr. Sukumar Bhattacharya, learned counsel being ably assisted by Ms. Sarda Sha, learned advocate appearing for the respondents Railway authorities referring to **Clause 19** from the Land Lease Agreement at **page 132** to the writ petition submits that, there is a provision for **Dispute Resolution**. If any dispute arises in connection with the said **Lease Agreement** the petitioner shall seek redressal of his grievance through such **Dispute Resolution Mechanism**. He further submits that, at no stage of Dispute Resolution Mechanism in terms of said **Clause 19** of the said Lease Agreement any provision for granting an opportunity of hearing is there. A recommendation has to be made by the

Standing Committee, the same shall be submitted before the respondent No. 3, whose decision then shall be final.

After considering the rival contentions of the parties and upon perusal of the materials on record it appears to this Court that, **Clause 19** of the said Lease Agreement provides for Dispute Resolution Mechanism.

On a meaningful reading of **Clause 19** it appears to this Court that, any dispute in connection with the said Land Lease Agreement shall have to be first referred before the said Dispute Resolution Forum and the parties shall make a reasonable endeavor to settle the dispute amicably at the threshold. On a further close reading of **Clauses 19.2 and 19.3** from the said **Land Lease Agreement**, this Court is of the firm view that, the petitioner has already invoked the said dispute resolution clause by its representation dated **July 24, 2024** at **page 145** to the writ petition and till date no endeavor has been made by the Railway authority to dispose of the same or to address the grievance of the petitioner therein.

The law is trite, when a grievance is raised before an authority, such an authority is duty bound to address the grievance in accordance with law. Since the said representation has not yet been addressed, this Court is of the view that, sufficient endeavor was there on the part of the petitioner at the

threshold for resolution of the disputes raised by it but the Railway authority is not eager to resolve the same at that stage. Hence, no further step or attempt is required to be taken for amicable settlement of the dispute and the dispute may straight now be referred to in terms of **Clause 19.4** of the Land Lease Agreement before the Standing Committee.

On a further reading of the said Dispute Resolution clause from the Lease Agreement, it appears to this Court that, the **right of the lessee** under the said Lease Agreement relating to a dispute touching the Lease Agreement shall have to be decided through the **Dispute Resolution Committee**, which would have both civil and evil consequences. Therefore, granting an opportunity of hearing is in built before the D.R.M. i.e. the respondent No. 3 who shall take the final decision, which shall be binding upon the parties.

As submitted on behalf of the parties it is the duty of the respondent No. 3 to constitute the Standing Committee in terms of **Clause 19.4** of the **Lease Agreement**.

Accordingly, the respondent No. 3 positively within a period of **seven days** from the date of communication of this order shall constitute the necessary Standing Committee in terms of **Clause 19.4** of the **Lease Agreement** and shall place the said representation dated **July 24, 2024** submitted by the

petitioner through its learned advocate before the said Standing Committee.

The Standing Committee so to be constituted shall consider all the relevant records and submit its recommendations before the D.R.M., positively within a period of **two weeks** from the date of constitution of the said Standing Committee.

The D.R.M. then upon receiving such recommendation from the Standing Committee shall issue a prior hearing notice of at least **three days** to the petitioner and after granting an opportunity of hearing to him shall finally decide the representation of the petitioner **dated July 24, 2024** taking into account the said recommendation of the Standing Committee also by passing its reasoned order.

The entire exercise as directed above shall be carried out and completed by the D.R.M., the respondent No. 3 herein positively within a period of **three weeks** from the date of receiving the recommendation from the Standing Committee. The D.R.M. then shall communicate its reasoned order to the petitioner positively within a period of **three working days** from the date of the said reasoned order to be passed by it. It is also to be noted that, along with the notice of hearing the D.R.M. shall also forward a copy of the recommendation of the Standing Committee to the petitioner.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner is not eligible to receive his claim in terms of his representation dated **July 24, 2024** strictly in accordance with law.

It is once made clear that, this Court has not decided the merits of the rival contentions of the parties.

With the above observations and directions, this writ petition **W.P.A. 19977 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)