

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

37 11.9.2024
Sc Ct. no.2

WPA 1869 OF 2024

M/S. Apex Technology & Anr.

Vs.

The State of West Bengl & Ors.

Mr. Kumar Shantanu

....For the Petitioners

Mr. Subir Kumar Saha, Ld. AGP

Mr. Sourav Sarkar.

....For the State

Respondents

Mr. Debarshi Dhar

Ms. Shampa Dutta.

.....For the Siliguri

Municipal Corporation

Mr. Kumar Shantanu, learned counsel
appears for the petitioners.

Mr. Subir Kumar Saha, learned Additional
Government Pleader appears for the State
respondents.

Mr. Deborshi Dhar, learned counsel appears
for the Siliguri Municipal Corporation.

Learned counsel for the petitioners submits
that, the petitioners have entered into an agreement
with the respondent nos. 5 and 6 and on the basis
of such agreement they have installed **Water
Vending Machine** at the stadium, namely,
Kanchanjungha Kriranggan. The agreement is
Annexure-P2 at page 22 to the writ petition. The

Stadium Committee thereafter issued a communication informing termination of contract and for removal of the Water Vending Machine dated **August 7, 2024, Annexure-P1 at page 19** to the writ petition. Learned counsel for the petitioner submits that, the agreement was executed by the respondent nos. 5 and 6 and the termination was done by the respondent nos. 2, 3 and 4. The petitioners challenged the termination particularly on the ground that, the termination was done by an authority which was not a contracting party and is a committee of the stadium.

Per contra, Mr. Deborshi Dhar, learned counsel appearing for the respondent nos. 2, 3 and 4 submits that, the agreement was cancelled by the respondent no.5 who is the Secretary of the Siliguri Stadium Committee. The respondent no.5 has due authority to terminate the contract with the petitioners and, accordingly, the same was terminated by virtue of a resolution taken by the stadium committee dated **July 26, 2024**.

After considering the rival contentions of the parties and upon perusal of the materials on record it appears to this Court that, ***whether the respondent No. 5 has authority to cancel the agreement or not*** and ***whether the respondent***

no. 2, the Chairman of the committee who by issuing a letter dated August 6, 2024 though not part of the writ petition but produced by the leaned counsel for the petitioners in course of the hearing today, the same is taken on record, has the authority, are the questions to be decided on a detailed fact finding enquiry and upon perusal of the records. To cause such detailed fact finding enquiry is not a job of the **Writ Court**. it shall have to be conducted by way of properly constituted trial, if necessary. The principal contract between the petitioners and the Siliguri Stadium Committee contains an **Arbitration clause** as would be evident from **page 33** to the writ petition.

In view of the above, this writ petition is not maintainable.

However, the petitioners shall be at liberty to invoke the **Arbitration Clause** within a period of **two weeks** from date. In the event such an **Arbitration Clause** is invoked, the authority shall immediately appoint an **Arbitrator** in accordance with law positively within a period of **one week** from the date of receipt of such request for appointment from the petitioners.

The petitioners then shall be free to proceed with the arbitration strictly in accordance with law.

In the event, the arbitration proceeding commences, the same shall be concluded as expeditiously as possible in accordance with law.

No coercive steps shall be taken till November 7, 2024 against the petitioners.

Thereafter this interim order shall loose its force automatically.

It is made clear that, this Court has not gone into the merits of the claims and rival claims of the parties and the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the learned ***Arbitrator***.

With the above observations and directions this writ petition, ***WPA 1869 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.)