

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 531 of 2020

M/s. S. B. Singh through its partner Sri Rajeev Kumar aged about 45 years, son of Late Daroga Prasad Singh, having its office at Dr. Shyama Prasad Mukherjee Nagar, Gali No. 2, Middle School Road, Near Trimurti Apartment, Dhairya, P.O. - ISM IIT, P.S. & District, Dhanbad

... .. Petitioner

Versus

1. The Union of India through the General Manager, East Central Railway, Zonal Office, Hazipur, P.O., P.S. & District - Vaishali
2. The Sr. Divisional Engineer (2), East Central Railway, Dhanbad, P.O., P.S. & District - Dhanbad
3. The Assistant Engineer, East Central Railway, Gujhandi, P.O. & P.S. - Gujhandi, District - Bokaro Respondents

CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner	: Mr. Rajiv Nandan Prasad, Advocate Mr. Binod Kumar, Advocate Ms. Nanda Kumari, Advocate
For the Respondents	: Mr. Prabhat Kumar Sinha, Sr. GC

Order No. 05 / Dated 05th September, 2024

1. The instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India wherein following prayers have been made:-

By filing the instant writ petition, the petitioner has prayed to issue Rule NISI calling upon the respondents to show cause as to why a writ in the nature of writ of certiorari be not issued quashing letter No. W. 584/192-DHN-2018-19 dated 31.01.2020 (Annexure - 7) issued by the Sr. Divisional Engineer (2), East Central Railway, Dhanbad whereby the contract for construction of Foot Over Bridge at Tankuppa and Bandhuwa Railway Station (TKN & BNF) awarded to the petitioner vide agreement no. 105M/GJD/19-20 dated 11.09.2019 has been rescinded and every member/partner has been debarred from participation in the tender for executing the balance work and also the Security Deposit and Performance Guarantee has been forfeited in a most illegal and arbitrary manner without show cause and giving opportunity of being heard and also why a writ in the nature of writ of mandamus be not issued commanding the respondents to allow the petitioner to complete the remaining work which will be completed within the stipulated period as prescribed in the agreement also for grant of other consequential benefit including payment of dues and after return of the Rule and hearing the counsel for the parties make the same absolute.

AND
*During pendency of the writ application the operation of
impugned letter dated 31.01.2020 may be stayed.*

2. By way of filing supplementary affidavit, the learned counsel for the petitioner has submitted that the work has been allotted in favour of another bidder and the work is in progress.

3. Learned counsel appearing on behalf of the petitioner has further submitted that now the claim is for the damage and compensation along with cost incurred including the other claims i.e. the Security Deposit and Performance Guarantee by the petitioner in carrying the work.

4. Learned counsel appearing on behalf of the respondents-Railways has not disputed the aforesaid fact that the work has been allotted in favour of another bidder and the work is in progress.

5. Learned counsel appearing on behalf of the respondents-Railways has further submitted that the contract between the petitioner and the respondent-Railways contains a general condition of a contract wherein a dispute redressal mechanism has been provided, having the arbitration clause.

6. Upon this, Mr. Rajiv Nandan Prasad, learned counsel appearing on behalf of the petitioner, seeks leave of this Court to withdraw the instant writ petition with a liberty to avail the remedy available under the contract for redressal of the aforesaid grievance.

7. There is no opposition by the learned counsel appearing on behalf of the respondents-Railways on the aforesaid submission.

8. Accordingly, the instant writ petition is dismissed as withdrawn with the liberty to the petitioner to take recourse of the dispute redressal mechanism as available in the general condition of the contract.

9. With the aforesaid observations, the instant writ petition stands disposed of.

(Sujit Narayan Prasad, A.C.J.)

(Arun Kumar Rai, J.)