

18.06.2025
Sl. No. 15
g.b.
Court No.551

W.P.A. 11491 of 2025

Cressanda Railway Solutions Ltd.
-Vs-
Union of India & Ors.

Mr. Saptarshi Roy
Mr. Siddhartha Roy
Ms. Kakali Das Chakraborty
.....For the Petitioner
Mr. Atarup Banerjee
Mrs. Sarda Sha
.....For the Respondents/Union of India

The writ petitioner is aggrieved by the issuance of a notice of demand dated May 13, 2025 by the Deputy Chief Commercial Manager/FS (Chief Commercial Manager/FM). The petitioner submits that the aforesaid notice of demand has been issued imposing liquidated damages on the petitioner without there being any basis for such imposition. The petitioner submits that while the petitioner may be liable to pay licence fees in terms of the contract there could be no occasion for the Railways to impose liquidated damages on the petitioner, more so when the petitioner has complained of considerable disruption to the petitioner's planned

work schedule due to reasons not attributable to the petitioner.

The petitioner submits that immediately after receipt of the letter dated May 13, 2025, impugned in the writ petition, the petitioner had made a representation seeking withdrawal of the demand notice dated May 13, 2025 on May 19, 2025. It is submitted that despite such representation having been made, the respondent Railway Authorities have not taken any decision thereon and the petitioner apprehends coercive action on the part of the Railways in case the petitioner does not comply with the demand notice. It is submitted by the petitioner that the petitioner is entitled to a notice to show cause prior to the issuance of such notice of demand dated May 13, 2025.

The learned advocate appearing for the respondent Railway Authorities submits that the demand notice dated May 13, 2025 has been rightly issued and that the petitioner is not entitled to any show cause notice prior to the issuance of impugned notice of demand.

The learned advocate for the respondent Railway Authorities hands up a copy of page 22 of the agreement entered into between the petitioner and the respondent Railway Authorities on September 6, 2023 and submits that in any case there is an arbitration clause that governs the parties and the petitioner can avail of the said remedy. The copy of the said document handed up by the learned advocate for the respondent Railway Authorities is taken on record.

It is submitted on behalf of the petitioner that such page was inadvertently not annexed to the writ petition.

Having heard the learned advocates for the respective parties and having considered the material on record, this Court is of the view that the issue as to whether liquidated damages could be imposed on the petitioner or not should not be decided by this Court at the first instance under Article 226 of the Constitution of India when there is an arbitration clause in the contract entered into by the parties.

However, since the petitioner has made a representation dated May 19, 2025 addressed to Respondent No.5 with copies thereof marked to the "PCCM, Eastern Railway", and since there is an urgency pleaded by the petitioner, it would be proper to direct the Respondent no.3, i.e. the Principal Chief Commercial Manager to take a reasoned decision on the petitioner's representation dated May 19, 2025, strictly in accordance with law within a period of 10 days from the date of communication of this order upon affording an opportunity of hearing to the petitioner.

It is needless to mention that the reasoned order that shall be passed by the Respondent no.5 within the aforesaid time frame, shall be communicated to the writ petitioner forthwith upon passing thereof.

It is made clear that this Court has not gone into the merits of the case and the direction on the Respondent No.3 to consider the petitioner's representation dated May 19, 2025 and dispose of the same by a reasoned order as aforesaid

shall not be treated as one in derogation of the arbitration clause governing the parties. It is further clarified that the Respondent No.3 i.e. the Principal Chief Commercial Manager shall be free to take decision in accordance with law.

Since no affidavits have been called for, the allegations made in the writ petition shall be deemed not to have been admitted by the respondents.

With the aforesaid observation WPA 11491 of 2025 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Om Narayan Rai, J.)