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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8795/2022 and CM APPLs.26489/2022, 44223/2023,
44292/2023, 67826/2024

PUNJ LLOYD LIMITED

.....Petitioner

Through: Mr. Siddhartha Iyer and Mr.
Chhatresh Kr. Sahu, Advs.

versus

GOVERNMENT OF INDIA

.....Respondent

Through: Ms. Arunima Dwivedi, CGSC and
Ms. Pinky Pawar, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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07.01.2025

CM APPL.67826/2024 (seeking directions to the respondent for permitting LPAI/the petitioner to remove FBTSS from ICP, Atarri as well as withdrawal of the writ petition)

1. The present application has been filed by the petitioner seeking the following reliefs:-

“a) Allow the present application and direct the Respondents to authorize/ direct the LPAI / the Petitioner to remove the FBTSS system installed at ICP Attari;

b) Allow the present application and permit the Petitioners to withdraw the present writ petition with liberty to avail of appropriate remedies in accordance with law.”

2. The present petition itself was filed seeking to challenge the decision dated 25.02.2022 by which the contract awarded by the respondent to the petitioner for supply of full body trucks scanner at five border points in the country, was cancelled.

3. No interim order has been passed in the present proceedings.



4. It transpires that certain bank guarantees submitted by the petitioner to the respondent have also been encashed. A petition under Section 9 of the Arbitration and Conciliation Act, 1996 was also filed by the petitioner seeking to assail the invocation of the said bank guarantee/s. However, the said petition came to be dismissed by a Coordinate Bench of this Court on 28.02.2022. It was thereafter that the instant writ petition was filed by the petitioner seeking to challenge the termination letter dated 25.02.2022.

5. Admittedly, neither of the parties have invoked the arbitration clause contained in the contract between the parties.

6. Along with the present application, the petitioner has enclosed a letter dated 14.10.2022 addressed by the respondent to the petitioner which states as under:

*“Government of India
Ministry of Home Affairs
Land Ports Authority of India*

*Ist Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003
Dated: 14.10.2022*

F.No.OPS/30011/413/2022/FBTS/8500-01

To

*M/s Punj Llyod Ltd.
78 Institutional Area, Sector 32,
Gurugram 122001*

Sub: Notice of Termination of Contract

*Please refer to Ministry of Home Affairs, PM Division (Proc Wing),
L.No. D/21013/30/3225/25.11.2010/MHA/PW/2015 dated 25.02.2022 on
the subject.*

*2. As per the directions, you are hereby directed to remove the FBTS from
ICP Attari at the earliest.*



(Rajesh Kumar Saini)
Under Secretary (Ops.)
011-24340714
Email-rk.saini@gov.in

7. Learned counsel for the petitioner submits that although initially the petitioner was reluctant to remove the machinery in question since it was agitating the issue of termination of the contract between the parties, the petitioner has now decided to give up its challenge to termination of the contract in these proceedings and exercise the option of removing the machinery in terms of the direction of the respondent itself as contained in the aforesaid letter dated 14.10.2022.

8. Learned counsel for the respondent seeks to oppose the present application on the basis that the respondent has to recover a sum of Rs.7.36 Crores from the petitioner. It is submitted that the respondent seeks to retain custody of the machinery so as to secure the said amount.

9. Having heard respective counsel, this Court finds that there is no justification for the respondent to seek to resile from its communication dated 14.10.2022 whereby the petitioner was expressly directed to remove its machinery. This is especially so since the respondent has not initiated any arbitral/ other proceedings to recover any amount/s from the petitioner.

10. Accordingly, the present application is allowed. The petitioner is permitted to remove its machinery in terms of the letter dated 14.10.2022 addressed by the respondent to the petitioner. The petitioner is also permitted to withdraw the present petition with liberty to invoke the arbitration clause in accordance with law.

11. The instant application is, accordingly, allowed. The instant petition is consequently dismissed as withdrawn with the aforesaid directions.



12. Needless to say, it shall also be open for the respondent to take recourse to appropriate proceedings under law for recovery of any amount/s from the petitioner and also to secure its monetary claim/s against the petitioner including by way of attachment of the concerned machinery. In the event of any such proceedings being initiated, the same shall be considered on its own merits, without being influenced by this order.

SACHIN DATTA, J

JANUARY 7, 2025/cl