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

\+ W.P.(C) 14922/2025, CM APPLs.61402/2025, 61401/2025

AERCOMFORT PRIVATE LIMITED & ANR. .....Petitioner

Through: Mr. Aditya Wadhwa, Mr. Arunav Sarma, Ms. Tanvi Jain, Mr. Abhyankar Parth, Mr. Raunaq Bali, Advs.

versus

M/S TELECOMMUNICATIONS CONSULTANTS INDIA LIMITED .....Respondent

Through: Mr. Pranav Sachdeva, Mr. Abhay Nair, Mr. P. Rohit Ram, Mr. Sanyam Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **25.09.2025**

1. The present petition has been filed by the petitioners seeking that the Telecommunications Consultants India Limited (‘TCIL’), the respondent, be directed to release the undisputed and admitted outstanding dues of the petitioners amounting to Rs.5,23,43,226/-.

2. The said dues have arisen in the context of a project pertaining to the renovation/expansion of the ESIC Hospital at Okhla, New Delhi, sanctioned by the Employees’ State Insurance Corporation (ESIC/Principal Employer). The turnkey contract for execution of this project was awarded to the respondent, TCIL, by ESIC under an agreement dated 13.11.2009. TCIL thereafter subcontracted the works to Reacon Engineers India Pvt. Ltd. (Intermediate Contractor) on 28.01.2010. Reacon Engineers India Pvt. Ltd., in turn, appointed the petitioner through a contract dated 23.08.2013 to carry

out HVAC and allied works for the said project.

3. It is submitted by the petitioners that during the course of execution of the project, Reacon faced severe financial difficulties, resulting in non-payment of dues to the petitioners. In light of this situation, several meetings were convened between August–September 2017 among ESIC, TCIL, Reacon, and the petitioner. In these meetings, TCIL assured that it would honour the payments due to the petitioners for the work done by the petitioners in connection with the aforesaid project.

4. It is submitted that, thereafter, a contractual framework was also agreed upon to give effect to the aforesaid understanding. Pursuant thereto, the petitioner completed its scope of work.

5. The petitioners are aggrieved by the fact that TCIL allegedly reneged on its assurances and refused to honour its payment obligations, citing lack of privity of contract with the petitioners.

6. Hence, the present petition has been filed.

7. A perusal of the prayers in the instant writ petition reveals that, in essence, the petitioners have sought to canvass a money claim against the respondent in these proceedings.

8. Learned counsel for the respondent, appearing on advance notice, has seriously disputed the factual and contractual basis of the claim sought to be asserted by the petitioners.

9. In these proceedings, it would not be apposite for this Court to undertake the exercise of rendering findings on intricate factual aspects (which may require evidence to be adduced), interpreting the relevant contractual provisions, and/or determining the nature of the understanding between the parties, the novation/s that took place and the scope and import

of applicable contractual provisions. These are matters best left to be adjudicated in appropriate civil proceedings.

10. In ***Kerala SEB v. Kurien E. Kalathil***, (2000) 6 SCC 293, the Supreme Court has observed has under –

> *"10. We find that there is a merit in the first contention of Mr Raval. Learned counsel has rightly questioned the maintainability of the writ petition. The interpretation and implementation of a clause in a contract cannot be the subject-matter of a writ petition. Whether the contract envisages actual payment or not is a question of construction of contract. If a term of a contract is violated, ordinarily the remedy is not the writ petition under Article 226. We are also unable to agree with the observations of the High Court that the contractor was seeking enforcement of a statutory contract. A contract would not become statutory simply because it is for construction of a public utility and it has been awarded by a statutory body. We are also unable to agree with the observation of the High Court that since the obligations imposed by the contract on the contracting parties come within the purview of the Contract Act, that would not make the contract statutory. Clearly, the High Court fell into an error in coming to the conclusion that the contract in question was statutory in nature.*
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> *11. A statute may expressly or impliedly confer power on a statutory body to enter into contracts in order to enable it to discharge its functions. Dispute arising out of the terms of such contracts or alleged breaches have to be settled by the ordinary principles of law of contract. The fact that one of the parties to the agreement is a statutory or public body will not by itself affect the principles to be applied. The disputes about the meaning of a covenant in a contract or its enforceability have to be determined according to the usual principles of the Contract Act. Every act of a statutory body need not necessarily involve an exercise of statutory power. Statutory bodies, like private parties, have power to contract or deal with property. Such activities may not raise any issue of public law. In the present case, it has not been shown how the contract is statutory. The contract between the parties is in the realm of private law. It is not a statutory contract. The disputes relating to interpretation of the terms and conditions of such a contract could not have been agitated in a petition under Article 226 of the Constitution of India. That is a matter for adjudication by a civil court or in arbitration if provided for in the contract. Whether any amount is due and if so, how much and refusal of the appellant to pay it is justified or not, are not the matters which could have been agitated and decided in a writ petition. The contractor should have relegated to other remedies."*

11. Further, in ***Joshi Technologies International Inc. v. Union of India***, (2015) 7 SCC 728, the Apex Court has made the following observations –

"55. Law in this aspect has developed through catena of judgments of this Court and from the reading of these judgments it would follow that in pure contractual matters the extraordinary remedy of writ under Article 226 or Article 32 of the Constitution cannot be invoked. However, in a limited sphere such remedies are available only when the non-Government contracting party is able to demonstrate that it is a public law remedy which such party seeks to invoke, in contradistinction to the private law remedy simpliciter under the contract. Some of the case law to bring home this cardinal principle is taken note of hereinafter.

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59. On the basis of these facts, this Court observed that the aforesaid observations of the High Court relying upon Ramana Dayaram Shetty case [(1979) 3 SCC 489 : (1979) 2 LLJ 217] were not correct. Thus observed the Court, speaking through Ratnavel Pandian, J. : (Ajai Pal Singh case [(1989) 2 SCC 116 : (1989) 1 SCR 743] , SCC pp. 125-26, paras 21-22)

> *"21. This finding in our view, is not correct in the light of the facts and circumstances of this case because in Ramana Dayaram Shetty case [(1979) 3 SCC 489 : (1979) 2 LLJ 217] there was no concluded contract as in this case. Even conceding that the BDA has the trappings of a State or would be comprehended in 'other authority' for the purpose of Article 12 of the Constitution, while determining price of the houses/flats constructed by it and the rate of monthly instalments to be paid, the 'authority' or its agent after entering into the field of ordinary contract acts purely in its executive capacity. Thereafter the relations are no longer governed by the constitutional provisions but by the legally valid contract which determines the rights and obligations of the parties inter se. In this sphere, they can only claim rights conferred upon them by the contract in the absence of any statutory obligations on the part of the authority (i.e. BDA in this case) in the said contractual field.*
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> *22. There is a line of decisions where the contract entered into between the State and the persons aggrieved is non-statutory and purely contractual and the rights are governed only by the terms of the contract, no writ or order can be issued under Article 226 of the Constitution of India so as to compel the authorities to remedy a breach of contract pure and simple — Radhakrishna Agarwal v. State of Bihar [(1977) 3 SCC 457] , Premji Bhai*

Parmar v. DDA [(1980) 2 SCC 129] and Divl. Forest Officer v. Bishwanath Tea Co. Ltd. [(1981) 3 SCC 238 : (1981) 3 SCR 662] "

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69. The position thus summarised in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. At the same time, discretion lies with the High Court which under certain circumstances, it can refuse to exercise. It also follows that under the following circumstances, "normally", the Court would not exercise such a discretion:

69.1. <u>The Court may not examine the issue unless the action has some public law character attached to it</u>.

69.2. Whenever a particular mode of settlement of dispute is provided in the contract, the High Court would refuse to exercise its discretion under Article 226 of the Constitution and relegate the party to the said mode of settlement, particularly when settlement of disputes is to be resorted to through the means of arbitration.

69.3. <u>If there are very serious disputed questions of fact which are of complex nature and require oral evidence for their determination</u>.

69.4. <u>Money claims per se particularly arising out of contractual obligations are normally not to be entertained except in exceptional circumstances</u>."

12. In the circumstances, this Court is not inclined to entertain the present petition, while granting liberty to the petitioners to pursue appropriate civil remedies in respect of its monetary claim against the respondent.

13. The petition is disposed of in the above terms. Pending applications also stand disposed of.

14. It is made clear that this order shall not be construed as an expression of opinion of this Court as regards the merits of the respective cases of the parties.

SACHIN DATTA, J

SEPTEMBER 25, 2025/r