

S/L 54
23.03.2026
Court. No. 25
Sourav

WPA 6833 of 2026

**Technofab Engineering-SN Envirotech JV & Ors.
Vs.
State of West Bengal & Ors.**

*Mr. Pallav Kumar
Mr. Somnath Gangopadhyay*

...for the petitioners.

*Mr. Swapan Kr. Datta, Ld. GP
Mr. Rajat Dutta
Mr. Bikramjit Mandal*

...for the State.

Mr. Joydeep Banerjee

...for the respondent no. 2.

*Mr. Anuj Singh
Mr. Ashok Kr. Singh
Mr. Aman Agarwal
Ms. Prinisha De*

...for the respondent no. 3.

1. The petitioners have filed the present writ application praying for an order restraining the respondent no. 2 for encashing the amount of performance guarantee.
2. Learned counsel for the petitioners submits that the petitioners have filed an application under Section 9 of the Arbitration and Conciliation Act before the learned Commercial Court at Rajarhat, North 24 Parganas being Misc. Arb. (Com.) No. 7 of 2026 on February 16, 2026 but the learned Judge, Commercial Court refused to grant the ad interim injunction on the ground that no material has been placed before this Court to suggest that there has been any over action on the part of the respondent to invoke the bank guarantee, immediately and as such, this Court thinks it proper to consider this matter after giving opportunity of hearing to the other side and, accordingly, the learned Commercial Court has fixed the matter on

March 25, 2026. Learned counsel for the petitioners submits that after the order dated 16.02.2026, the petitioners are apprehending that the bank will realize the amount of the performance guarantee, the petitioners have filed the present writ application.

3. Learned counsel appearing for the respondent authorities raised the point of maintainability and submits that the petitioners have filed an application under Section 9 of the Arbitration and Conciliation Act and the learned Commercial Court has refused to grant ad interim injunction and thus, the petitioners cannot file the writ application challenging the refusal of grant of ad interim injunction and he prays for dismissal of the writ application.
4. Learned counsel for the petitioners has relied upon the judgment in the case of ***Jindal Steel and Power Limited & Anr. Vs. Bansal Infra Projects Private Limited & Ors.*** reported in ***(2025) 10 SCC 176*** and submits that Article 226 of the Constitution of India, the writ application is maintainable.
5. This Court has perused the aforesaid judgment and found that the said judgment is connected with the application under Article 227 of the Constitution of India and not under Article 226 of the Constitution of India. This Court also finds that this is the commercial matter and if the petitioners are aggrieved by the order passed by the learned Commercial Court, the petitioners have an opportunity to take appropriate steps before the Commercial Appellate Division but instead of taking

appropriate steps before the appropriate Court have filed the present writ application.

6. Considering the above, this Court finds that the writ application filed by the petitioners is not maintainable. Accordingly, the writ petition is dismissed. However, the learned Commercial Court is requested to expedite the hearing of the Section 9 application filed by the petitioners as early as possible.
7. **WPA 6833 of 2026** is dismissed.
8. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)