**IN THE HIGH COURT AT CALCUTTA**
**Constitutional Writ Jurisdiction**
**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Shampa Dutt (Paul)**

**WPA 25161 of 2025**

**Mother India Construction & Anr.**
**Versus**
**Indian Oil Corporation Ltd. & Ors.**

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|---|---|---|
| **For the Petitioners** | : | Mr. Dinesh Pani,<br>Mr. Sarajit Sen,<br>Ms. Sulagna Sen. |
| **For the Respondent Nos. 1 to 3** | : | Mr. Soumya Majumder, ld. Sr. Adv.<br>Ms. Sharmistha Ghosh,<br>Ms. Sanjukta Dutta,<br>Mr. Ranit Ray. |
| **For the Respondent No. 4** | : | Mr. Chirantan Dawn. |
| **Judgment reserved on** | : | 31.08.2026 |
| **Judgment delivered on** | : | 01.10.2026 |

**Shampa Dutt (Paul), J.:**

**1.** The writ application has been preferred praying for recall/cancellation of impugned notice/letter dated 03.11.2025, issued by the respondent authority upon declaring the MOS arrived at the meeting held on 13.05.2025 as not binding upon the petitioners.

**2.** Vide the impugned notice dated 03.11.2025, the respondent company asked for exclusion/encashment of Bank guarantee as the petitioner did

not pay the due wage/arrear of the contract labour, as agreed under the MOS dated 13.05.2025.

**3.** The petitioners' case is that the relation of employer and the workers between the petitioner and its' workers ceased on 31.08.2024, as the tenure of the work contract was over much prior to the **MOS dated 13.05.2025, to which the petitioner was not even a party** and no notice for meeting was even served upon him.

**4.** Thus the petitioners' case is that the MOS is not binding upon it.

**5. The petitioners offer for the subject tender was made/accepted on 30.08.2024 commencing from 01.09.2023 and ending on 31.08.2024.**

**6. The Bank guarantee required to be submitted was to remain valid up to a period of 3(three) months beyond the end of the defects liability period.**

**7.** The petitioners state that it is on that ground, the MOS is not binding upon it.

**8.** The petitioners relies upon the following judgments:-

***(i) Bata Shoe Co. (P) Ltd. vs. D.N. Ganguly & Ors. reported in AIR 1961 SC 1158;***

***(ii) Hochtief Gammon vs. Industrial Tribunal, Bhubaneswar, Orissa & Ors. reported in AIR 1964 SC 1746;***

***(iii) Canara Bank & Ors. vs. Debasis Das & Ors. reported in (2003) 4 SCC 557;***

***(iv) The Jhagrakhan Collieries (P) Ltd. vs. Shri G.C. Agarwal Presiding Officer, reported in (1975) 3 SCC 613;***

(v) ***Mahabir Auto Stores & Ors. vs. Indian Oil Corporation Ltd. & Ors. reported in (1990) 3 SCC 752;***

(vi) ***U.P. Cooperative Federation Ltd. vs. Singh Consultants & Engineers (P) Ltd. reported in (1988) 1 SCC 174;***

(vii) ***U.P. State Sugar Corporation Ltd. vs. Sumac International Ltd. reported in (1997) 1 SCC 568***.

**9.** In it's report in the form of affidavit the respondent no. 4 has stated as follows:-

> *"That the Assistant Labour Commissioner(C) Kolkata issued a letter No. 8/60/2023 -E3 dated 07.12.2023 and Letter No. 8/60/2023-E.3 dated 25.01.2024 addressing the Petitioner No. 1, Respondent No. 3 and Respondent No. 5 to attend the Joint discussion under Section 12 of the Industrial Dispute Act, 1947 on 18.01.2024 at 11:30 A.M. and on 12/03/2024 at 11.30 a.m. respectively but the Petitioner No. 1 neither responded nor participated in any of the conciliation meeting held thereafter."*

**10.** The respondent nos. 1 to 3 (IOCL) on filing written notes has argued that the Tripartite settlement though executed in 03.05.2025, that is after discharge of the Contract, the said Tripartite Settlement has **retrospective effect from 01.07.2021 to 30.6.2026.**

**11.** The said dispute over charter of demands was pending in conciliation when Mother India was working as a Contractor of Haldia Township. Therefore, the writ petitioner/contractor was aware of the existence of industrial disputes at the relevant point of time. In fact, the earlier

Tripartite Settlement dated 19.01.2018 was signed by the writ petitioner, which was in operation from July 2016 to June 2021.

**12.** The liability of the contractor towards 27+46=73 contract labourers against estimated wage revision for 1 year is Rs.37 Lakhs**. There is a Security Deposit of Rs.43,45,000/-Lakhs and a Performance Bank Guarantee of Rs.21,30,007/- Lakhs The Bank Guarantees have been released in favour of the writ petitioner pursuant to the order of the Hon'ble Court.**

**13.** The amount payable to the workers was an assumed liability by the writ petitioner in course of accepting the work order and he was fully aware of such prospective liability towards such revision of workers wages through Charter of Demand and tripartite settlements, during the operative period of the contract, and also thereafter when he was represented in the conciliation meeting through his representative.

**14.** A tripartite settlement is deemed to be fair and binds all parties. It is not even the writ petitioner's case that he was not part of the Contractor's who has represented the employers in relation to the dispute over charter of demands. ***[National Engineering Industries Ltd.-Vs- State of Rajasthan and Others reported in (2000) 1 SCC 371 (Para-24]***

**15.** Non-payment of the revised arrear of wages to the contract labourers during the period of denial of the writ petitioner will cause heavy impact on the maintenance and ancillary works at the Haldia Township.

**16.** The writ petition should therefore be dismissed and the amount deposited with the Registrar General should be allowed to be withdrawn

with accrued interest and the same may be allowed to be disbursed amongst the concerned contract labourers towards revised arrear wages.

**17.** The following judgment has been relied upon by the respondent/IOCL:-

***i. National Engineering Industries Ltd.-Vs- State of Rajasthan and Others reported in (2000) 1 SCC 371 (Para-24).***

**18. Respondent/IOCL** has also filed the documents in support of their case against the petitioners, which are part of the record and includes copies of tripartite settlement, work order, charter of demand etc.

**19.** From formats dated 19.01.2018, which is a MOS between the parties, it appears that the petitioners have admittedly accepted the same.

**20.** Special conditions of contract dated 30.08.2023 includes the following clauses being no. 2 and 3 as follows:-

> *"2.Monthly basic salary to be paid by contractor to MoS/other contract workers/casual labourer in addition to allowances like Travel allowance, Uniform allowance, EL encashment, Gratuity, Bonus etc. & Contractor's contribution towards PF/ESI etc as per MOS agreements (Annexure 1 for MOS workers only) signed on 19.01.2018.*
> *This agreement is due for revision w.e.f. 1st July 2021 onwards. Contractor shall have to fulfil all the requirements as per the new Charter of Demands (MOS agreement) including payment of arrears etc (if any) on account of revised MOS without any extra cost to IOCL. Contractor has to note that the new Demands (MOS agreement), which may be signed at a later date but the same will be effective from 01.07.2021, and hence the entire financial liability arising on account of*

*revised MOS for the entire contractual period shall have to be fulfilled by the contractor, without any extra cost to 1OCL, although the contract is either running or completed before signing of new Charter of De agreement).*

***3**. In case the contractual period is completed before the new Charter of Demands (MOS agreement) is signed, contractor shall be required to submit a notarized undertaking stating that the contractor shall fulfil all the requirements as per the new Charter of Demands (MOS agreement) including payment of arrears etc. (if any) on account of revised MOS without any extra cost to IOCL and also deposit a Bank guarantee for 12 months (which shall be extended if required) of necessary amount, as per direction of EIC, to cover the financial liability on account of pending revision of MOS agreement for the entire contractual period. On failing to submit above documents, IOCL will be entitled to witheld/deduct necessary amount, as per discretion of EIC, from any amount due from IOCL to the Contractor under this &/or any other contract. Further, IOCL at the risk and cost of the contractor, will also be entitled to fulfil the requirements of the new Charter of Demands (MOS agreement) including payment of arrears etc. (if any), either directly or through a third party, in case the contractor falls to do so. Contractor is advised to take into consideration financial liability arising on account of revised MOS for the entire co period and quote accordingly."*

**21.** Again on 12.03.2024, in a meeting regarding dispute on the issue of Charter of Demands, the petitioner was also a party.

**22.** The (MOS) meeting held on 13.05.2025 the petitioner was not present.

**23.** Thus admittedly the petitioner's **contract was from 01.09.2023 till 31.08.2024**.

**24. Form H dated 19.01.2018 and contract dated 30.08.2023 and the meeting dated 12.03.2024, had the petitioner's presence.**

**25.** The said meetings and attendance were related to the MOS entered into from time to time regarding the Charter of Demands of the employees.

**26.** Clause 3 of the Contract dated 30.08.2023, binds the petitioner to pay the arrear dues of the workers as follows:-

> *"**3**. In case the contractual period is completed before the new Charter of Demands (MOS agreement) is signed, contractor shall be required to submit a notarized undertaking stating that the contractor shall fulfil all the requirements as per the new Charter of Demands (MOS agreement) including payment of arrears etc. (if any) on account of revised MOS without any extra cost to IOCL and also deposit a Bank guarantee for 12 months (which shall be extended if required) of necessary amount, as per direction of EIC, to cover the financial liability on account of pending revision of MOS agreement for the entire contractual period. On failing to submit above documents, IOCL will be entitled to withheld/deduct necessary amount, as per discretion of EIC, from any amount due from IOCL to the Contractor under this &/or any other contract. Further, IOCL at the risk and cost of the contractor, will also be entitled to fulfil the requirements of the new Charter of Demands (MOS agreement) including payment of arrears etc. (if any), either directly or through a third party, in case the contractor falls to do so. Contractor is advised to take into consideration financial liability arising on account of revised MOS for the entire co period and quote accordingly."*

**27.** Thus the petitioner is bound by the terms and conditions of MOS and contract, as the petitioner has been working with the respondent (IOCL) Establishment as a contractor since 19.01.2018 and even when another contract was entered into on 30.08.2023.

**28.** **The writ petition is thus dismissed, as no grounds for interference in the impugned orders is made out.**

**29.** Learned Registrar General shall release the amount deposited in compliance of this Court's order dated 28.11.2025 along with interest at once, to the respondent/IOCL who shall in turn disburse the same to the workers entitled to it within 3 (three) months from the date of this order.

**30.** Applications, if any, connected thereto stand disposed of consequently.

**31.** Interim order, if any, stands vacated.

**32.** Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

**(Shampa Dutt (Paul), J.)**