

(2021) 11 PAT CK 0009

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 8139 Of 2020

M/S Golchha Udyog

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 02-11-2021

Acts Referred:

Citation : (2021) 11 PAT CK 0009

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the respondents. Learned counsel for the petitioner has filed an undertaking to remove all defects pointed out by the Stamp Reporter as and when required. It is accordingly directed that all defects pointed out by the Stamp Reporter be removed within one month hereof.

2. The present writ petition has been filed for the following reliefs as formulated by the petitioner-

"1(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing order dated 13.06.2020 passed by the Respondent Additional District Magistrate (Establishment) cum District Certificate Officer, Araria in Certificate Case No. 01/2014-2015 whereby and where under the objection filed by the petitioner has been rejected and the petitioner has been directed to deposit Rs. 46,66,254.40/- as interest upon the principal amount already paid by the Petitioner under protest, on the ground that the same is completely arbitrary and unjustified in nature.

(ii) To issue a further writ order or direction in the nature of mandamus commanding the Respondent Additional District Magistrate (Establishment) cum District Certificate Officer, Araria, not to proceed further with Certificate Case no. 01/2014-2015 and keep the same in abeyance till the final decision of Arbitral

Tribunal consisting of Sole Arbitrator Hon'ble (Retired) Mr. Justice Ramesh Kumar Dutta, in Arbitration Case No. 02 of 2019.

(iii) The Hon'ble Court may adjudicate and hold the order dated 13.06.2020 passed by the Respondent Additional District Magistrate (Establishment) cum District Certificate Officer, Araria in Certificate Case no 01/2014-2015 is in utter violation of interim order dated 11/22.10.2019 passed by the Arbitral Tribunal consisting of Sole Arbitrator Hon'ble (Retired) Mr. Justice Ramesh Kumar Dutta, in Arbitration Case No. 02 of 2019, directing that no coercive steps be taken against the petitioner and thus bad in law.

(iv) This Hon'ble Court may adjudicate and hold that action of the Respondents in compelling the petitioner to deposit Rs. 46,66,254.40/- as interest upon the principal amount already paid by the Petitioner under protest, under the threat of coercive action that too without any substantive finding of liability against the Petitioner is highly arbitrary exercise of power conferred under the Act and tantamount to abuse of power.

(v) This Hon'ble Court may adjudicate and hold that no interest is payable since the entire disputed amount has been paid prior to adjudication.

(vi) This Hon'ble Court may award the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondent Authorities.

(vii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

3. Without going into the detailed merits of the matter, Mr. Suraj Samdarshi, learned counsel appearing on behalf of the petitioner states that three separate proceedings relating to the petitioner and two other persons, were running concurrently before the Certificate Officer, which were disposed of by separate orders, all dated 13.06.2020, and in all of which a direction was issued for making certain payment latest by 15.07.2020 before proceeding further in the matter. He further states that in the other two matters, namely Certificate Case no. 02/2014-2015 and Certificate Case No. 03/2014-2015 respectively, the interim orders of stay passed in arbitration proceedings were brought to the notice of the Certificate Officer, consequent upon which the Certificate Officer recalled both his orders dated 13.06.2020 in the said two cases.

4. It is stated that in the petitioner's case, however, the similar interim order passed in Arbitration Case No. 2/2019 in the petitioner's case could not be brought to the notice of the Certificate Officer by the parties in the backdrop of the on-going Covid-19 Pandemic. As such, the order dated 13.06.2020 of the Certificate Officer in the petitioner's case could not be recalled and continued on record.

5. Learned counsel for the respondent State appears and has been heard. He fairly states that in this circumstance, there can be no objection if the matter is

remanded to the Certificate Officer for passing a fresh order, keeping in view the nature of interim order passed in the arbitration case.

6. Having heard the parties and on consideration of the materials on record, the impugned order dated 13.06.2020 passed in Certificate Case No. 01/2014-2015 (Annexure-18) by the Additional District Magistrate (Establishment) cum District Certificate Officer, Araria is set aside and the matter is remanded to him for passing a fresh order, having regard to the interim order passed in the Arbitration Case No. 2/2019.

7. This writ petition stands disposed of with the aforementioned observations and direction.

8. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.