
(2018) 06 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 3253 of 2016, 3149 of 2017

M/s Narayan Dutt Rajendra Kumar

APPELLANT

Vs

Public Works Department and another

RESPONDENT

Date of Decision : 15-06-2018

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11(6)

Citation : (2018) 06 UK CK 0020

Hon'ble Judges : SUDHANSHU DHULIA, J

Bench : Single Bench

Advocate : Aditya Singh, Yogesh Pandey

Final Decision : Dismissed

Judgement

SUDHANSHU DHULIA, J. (ORAL)

1. The petitioner before this Court is a contractor and, inter alia, does the construction of roads. Writ Petition (M/S) No. 3253 of 2016 has been filed

by the petitioner seeking a writ, order or direction in the nature of certiorari for quashing the advertisement dated 23.11.2016, whereby the respondent

department has invited tenders for "Strengthening of LaldhangChillarkhal Motor Road". Another writ petition being Writ Petition (M/S) No. 3149

of 2017 has been filed by the petitioner seeking a writ, order or direction in the nature of certiorari for quashing the advertisement dated 27.11.2017

issued by the respondents inviting tenders for construction of the same motor road i.e. "LaldhangChillarkhal Motor Road".

2. The case of the petitioner is that regarding "LaldhangChillarkhal Motor Road", he has already done construction works earlier and since there

arose a dispute between the petitioner and the respondent department, an arbitrator was appointed by this Court on 28.06.2013, on an application

moved by the petitioner before this Court under Section 11 (6) of the Arbitration and Conciliation Act, 1996. The learned arbitrator has given an

Award of Rs. 3,17,133/-(Rupees Three Lakh Seventeen Thousand One Hundred Thirty Three only) in favour of the petitioner on 17.05.2015.

Thereafter, being dissatisfied with the award, the petitioner has moved an arbitration appeal before this Court being A.O. No. 405 of 2015, which is still pending.

3. The plea of the petitioner in both the petitions is that petitioner had already done the work for "LaldhangChillarkhal Motor Road" and since

there arose a dispute between the parties, on an application moved by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act, 1996,

this Court had appointed an arbitrator to adjudicate the dispute. The learned Arbitrator gave an award of Rs. 3,17,133/-(Rupees Three Lakh

Seventeen Thousand One Hundred Thirty Three only) in favour of the petitioner on 17.05.2015 and thereafter being dissatisfied with the award, the

petitioner has directly filed an appeal against the award before this Court.

4. Whether the petitioner could have directly filed an appeal before this Court against an award is entirely a different question, which this Court is

presently not dealing with. However, the construction of road in question which is in a hill area, for public purposes, cannot be stalled on ground of a

pending appeal. The two have no relation, as the road has to be constructed for public purposes. Therefore, the relief claimed by petitioner cannot be

granted.

5. Consequently, both the writ petitions are dismissed. Interim orders dated 08.12.2016 and 22.12.2017 stand vacated.

6. The Registrar General is hereby directed to communicate this order to the District Magistrate, Nainital for onward compliance.