
(2010) 03 RAJ CK 0023
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4097 of 2010

S.N. Thakkar Construction Pvt. Ltd.

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 2 WLN 625

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—Petitioner is a Company incorporated under the Companies Act, assailed the order dt. 16th March, 2010 [Ann.7] whereby the Executive Engineer, Water Resources, sent a letter to the Chief Branch Manager, Bank of India invoking the bank guarantee as per the terms & conditions of contract executed between the parties.

2. The petitioner executed a work contract in the extended period of rehabilitation of earthen dam of Morel Irrigation Project, Dausa. However, after completion of work order, as alleged, security deposited was refunded to the petitioner, which is evident from Ann.5 and Certificate [Ann.6] has also been issued to him. To this effect work was completed in extended period granted upto 1st February, 2009.

3. Counsel for petitioner submits that before respondents took decision for invoking the bank guarantee vide communication dt. 16th March, 2010, no opportunity of hearing was afforded and he is completely unaware of as to what is the reason for invoking the bank guarantee which he has furnished in regard to Work Order No. 53/2006-07.

4. In opinion of this Court, submission made by Counsel is without merit for the reason that bank guarantee can be invoked by the party to the contract as per

terms & conditions of contract executed. The terms of contract which was executed between the parties, is not on record and merely because security amount was refunded to the petitioner in no manner can preclude the authorities from invoking bank guarantee, if there is any violation of terms & conditions of the contract executed and once the respondents took decision to invoke bank guarantee who is a party to the contract, it will not be open for this Court to interfere under writ jurisdiction of Article 226 of the Constitution of India.

5. Consequently, writ petition fails and is hereby dismissed. However, petitioner will be at liberty to avail remedy available under law.