

(2020) 06 RAJ CK 0032
In the Rajasthan High Court
Case No : Spl. Appl. Writ No. 331 Of 2020

State Of Rajasthan And Ors

APPELLANT

Vs

M/s. Ganpati Associates

RESPONDENT

Date of Decision : 08-06-2020

Acts Referred:

Citation : (2020) 06 RAJ CK 0032

Hon'ble Judges : Sangeet Lodha, J;Rameshwar Vyas, J

Bench : Single Bench

Advocate : Sandeep Shah, Falgun Buch

Judgement

1. This intra court appeal is directed against order dated 8.5.2020 passed by the learned Single Judge of this Court, whereby an interim order has been passed in favour of the respondent-writ petitioner in terms of the order dated 5.5.2020 passed by a coordinate Bench in Shree Shiv Jyoti Enterprises Pvt. Ltd. vs. State of Rajasthan: SBCWP No.4199/2020 and connected matters. The interim directions issued by the learned Single Judge vide order dated 5.5.2020 passed in Shree Shiv Jyoti Enterprises Pvt. Ltd.'s case (supra), reads as under:

"(i) the respondents shall not terminate petitioners' contract on account of non-payment of the amount pertaining to the lock-down period. In case, any order terminating their contract has been issued, the same shall remain in abeyance;

(ii) The petitioners will nevertheless be required to clear all their dues (upto 22.3.2020) within a period of 7 days from today. Details of such amount will be provided by the State within a period of three days to each of the petitioners;

(iii) As and when the situation is conducive for collection of excess royalty etc., the State will issue specific order to each of the petitioners, requiring/permitting them to commence the collection in furtherance of their respective contracts;

(iv) Until the State issues such order, the petitioners or their agents will not be permitted to collect amount of excess royalty, DMFT etc.;

(v) While issuing fresh order(s) for starting collection, the State shall give at least 15 days' moratorium to the concerned contractors to deposit the advance monthly installment. In other words, once the collection activities are recommenced, for a period of 15 days, the contract will be allowed to operate, without insisting upon payment of advance monthly installment;

(vi) In case the respondents have invoked the bank guarantee or has written letter(s) to the Bank for encashment of the bank guarantee and/or performance security, the same shall remain in abeyance. It will be obligatory of the respondents to withdraw such letters orders, if issued."

2. A coordinate Bench of this Court while disposing of a bunch of intra court appeals preferred by the various entrepreneurs against the identical orders passed by the learned Single Judge, being D.B.Special Appeal (Writ) No.301/2020 and other connected appeals, vide order dated 29.5.2020 modified the order under appeal, in the following terms:

"Thus, we deem it fit to direct that the collection of royalty amount under the contracts in question shall be commenced within a period of three days from today. The writ petitioners (respondents herein) shall clear off their outstanding dues if any (upto 22.3.2020) within a period of three days thereafter failing which, consequences shall flow as per the stipulations in the contracts. The issue regarding penalty/interest imposed upon the contractors by the State Government shall be open to deliberation/adjudication by the learned Single Bench in the pending writ petitions.

Clause (iii) of the interim stay orders shall stand modified in the term that there shall be no requirement for the State Government to issue specific order to each writ petitioner requiring/permitting them to commence the collection of royalty in furtherance of the respective contract.

As a consequence, the direction given by learned Single Bench in Clause (v) of the interim stay orders requiring the State to give 15 days moratorium to the concerned contractor is set aside.

All the single bench writ petitions shall be listed by the Registry on the scheduled date/s. We request the learned Single Bench to decide the matters at the earliest. The parties shall be at liberty to raise all permissible objections/submissions before the learned Single Bench who shall adjudicate the same without being prejudiced by any of the observations made hereinabove.

With the above modifications in the interim stay orders passed by the learned Single Bench, the appeals are disposed of."

3. Learned counsel appearing for the respondent submits that the respondent has preferred an application before the learned Single Judge for deletion of directions no.(i), (ii) & (iii) issued vide order dated 8.5.2020 inasmuch as, the respondent-writ petitioner has not questioned the legality of the termination of contract before the learned Single Judge in the writ petition filed. It is submitted

that the application is scheduled to be listed before the learned Single Judge on 8.6.2020.

4. Let, the matter be listed for admission on 10.6.2020.