

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1188 OF 2019  
IN  
COMM. ARBITRATION PETITION NO. 1594 OF 2019  
WITH  
COMM. ARBITRATION PETITION NO.658 OF 2021  
WITH  
INTERIM APPLICATION (L) NO. 23891 OF 2021  
IN  
COMM. ARBITRATION PETITION NO.658 OF 2021

Union of India through Director  
General Naval Projects Mumbai. ..Applicant /Petitioner  
Vs.  
Hindustan Construction Company Ltd. ...Respondent

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Ms. H. V. Tamanna a/w. Mr. Deepak Shukla, for the Petitioner.  
Mr. Zal Andhyarujina, Senior Advocate a/w. Mr. Jatin Pore, Ms.  
Maithili Parekh and Mr. A. Shahapurkar i/b. DSK Legal, for the  
Respondent.  
Mr. G. Arun, Joint Director (DM) and Mr. Shailesh Patil,  
Consultant to DGNP present.

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**CORAM : MANISH PITALE, J.**  
**DATE : 13 DECEMBER 2022**

**P.C.**

. By order dated 21/10/2022, this Court modified earlier order dated 18/10/2022, whereby the respondent was permitted to withdraw the amount to be deposited by the petitioner as a condition for grant of stay of the award, by furnishing Bank guarantee of any Nationalised Bank or certain Banks specified in

the said order.

2. Today, the application was listed at the request of the respondent as it sought a direction / permission of this Court for furnishing Bank guarantee of a Bank other than the Banks specified in the order dated 21/10/2022 of this Court.

3. The learned Senior counsel appearing for the respondent submitted that this Court may permit the respondent to furnish Bank guarantee for withdrawal of the amount, of the Exim Bank which is a fully Government owned Bank.

4. The learned counsel appearing for the petitioner, on instructions, submitted that the petitioner, may not be able to agree to such an arrangement. In this context, this Court has considered the nature of Exim Bank of India and it is found that the said Bank was established in the year 1982 on the basis of the Export-Import Bank of India Act, passed in September 1981. It is brought to the notice of this Court that Exim Bank commenced its operations in March 1982. The petitioner is not disputing the fact that the Exim Bank is indeed a Government owned Bank.

5. Considering the aforesaid nature of Exim Bank, this Court is inclined to grant permission sought by the respondent in the present case, in addition to the other Banks noted in the order

dated 21/10/2022 of this Court. In view of the above, the respondent is granted permission to furnish Bank guarantee / Bank guarantee of the Bank specified in the order dated 21/10/2022, and the Exim Bank of India, for withdrawing the amount that will be deposited by the petitioner, as a condition for grant of stay.

6. Let the arbitration petition be listed for consideration / hearing on 10/2/2023 at 2.30 p.m. The learned counsel for the parties shall place on record brief notes of argument and compilation of judgments, if any, within four weeks from today.

**MANISH PITALE, J.**