

8th January,
2024
(AK)
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W.P.A 28574 of 2023

Tirthankar Mukherjee
Vs.
Union of India and others

Mr. Anirban Ray
Mr. Sanjib Bandyopadhyay
Mr. Sounak Banerjee
Ms. Anamika Karmakar

...for the petitioner.

1. Affidavit-of-service filed in court today be kept on record.

2. Despite service, none appears for the respondent authorities.

3. The challenge in the present writ petition is against the termination of subsisting contracts held by the petitioner with the respondent authorities for advertising in railway stations and trains.

4. By virtue of the impugned termination, the railway authorities apparently cited the requirement to maintain and protect outstanding universal value of Darjeeling Himalayan Railway, which is in the opinion of the said authorities a World Heritage Site. Clause 17.2 of the SCC for contracts awarded through e-auction was invoked.

5. The said contract, however, merely provides that the railways reserves the right to terminate the

contract with immediate effect, without any financial repercussions on either side in case of “operational exigencies” or in cases where “the asset for which the contract was awarded, is not available for commercial exploitation due to some other development or change in site or any other reason”.

6. The whimsical termination of contract of the petitioner apparently does not fall within any of the said categories as contemplated in Clause 17.2 and as such is suspect.

7. Hence, the writ petition is required to be heard on such issue.

8. In view of a strong *prima facie* case for setting aside the impugned termination having been made out by the petitioner, the operation of the impugned termination of contract dated November 18, 2023 in the present case shall remain stayed till disposal of the writ petition.

9. The respondents shall file their respective affidavits-in-opposition within three weeks from date. Reply, if any, shall be filed within a week thereafter.

10. The matter shall be listed for hearing on February 12, 2024.

(Sabyasachi Bhattacharyya, J.)