

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 1387 of 2021

National Projects Construction Corporation Limited, Patna, through its Zonal Manager-cum-Authorized Signatory namely Jagat Veer Chaudhary

..... ... Petitioner

Versus

1. The State of Jharkhand
2. Chairman, Jharkhand Micro and Small Enterprises Facilitation Council, Ranchi, through Director of Industries, Department of Industries, Government of Jharkhand, Ranchi
3. Mr. Abhay Kumar Chaudhary, CMD, M/s. Ranchi Design and Consultancy Services Pvt. Ltd. Ranchi

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner :- Mr. Ashwini Bhushan, Advocate

For the State :- Mr. Mukesh Kumar Sinha, Sr.S.C.-I

Order No. 02

Dated: 12.04.2021

The present case is taken up today through Video conferencing.

2. The present writ petition has been filed for quashing the decision dated 07.09.2020 contained in minutes of meeting of Jharkhand Micro and Small Enterprises Facilitation Council (JHMSEFC), Ranchi held under the chairmanship of Director of Industries, Government of Jharkhand whereby the preliminary objection raised by the petitioner with respect to the jurisdiction of the said Council as well as other points raised by it at the first instance has not been decided in connection with case no. JHMSEFC-204/2019 (New Case No.- JH/20/S/JKH/00138). Further prayer has been made for quashing the entire proceeding of the aforesaid case as the said Council has no territorial jurisdiction as per the terms of the NIT and work orders. The petitioner has also prayed for issuance of direction upon the respondent no. 2 to decide the preliminary objection raised by it on the ground of territorial jurisdiction as well as maintainability of the case filed by the respondent no. 3.

3. Heard learned counsel for the petitioner and the State of Jharkhand as well as perused the contents of the writ petition. The petitioner appears to be aggrieved with the decision as contained in minutes of meeting of the JHMSEFC held on 07.09.2020 whereby the petitioner being the opposite party in the case has been directed to submit its stand on liquidation of dues of the first party (the respondent no. 3 herein) without taking decision on the preliminary objection raised by the petitioner.

4. Learned counsel for the petitioner submits that the Council should have first taken up the issue of territorial jurisdiction as it was clearly stipulated in clause 4.20 of the concerned NIT that all the questions and disputes arising with the said contract was subjected to the jurisdiction of the court at Patna (Bihar) only. It is also submitted that pursuant to the meeting held on 14.12.2020, the petitioner and the respondent no. 3 were issued notices by the

JHMSEFC, Government of Jharkhand, as contained in letter no. 157 dated 20.01.2021 directing them to submit reports before the Council within 10 days with respect to mutually resolving the dispute of payment of dues failing which the case would be decided on merit. Though both the parties submitted their reports in relation to the issue of mutual settlement of dispute, however the petitioner and the respondent no. 3 were issued further notices in that regard as contained in letter no. 342 dated 01.02.2021 to ensure their presence on 12.02.2021 at 12 O'Clock. Learned counsel for the petitioner thus submits that despite raising of preliminary objection before the said Council with regard to maintainability of the case for want of territorial jurisdiction, it is not inclined to adjudicate the said issue of maintainability.

5. On perusal of the impugned minutes of meeting of the JHMSEFC dated 07.09.2020, it appears that on the said date, the counsel for both the parties were heard. It was recorded in the said minutes of meeting that the petitioner (opposite party therein) had objected the maintainability of the case on the ground that the said Council had no territorial jurisdiction as per the terms and conditions of the NIT and the said issue must be decided first before proceeding further in the matter and the case was wrongly admitted by the Council without providing opportunity of hearing to it. On the said issue, it was recorded by the Council that the case would be decided in terms of law on the said objection raised by the petitioner and thereafter it was directed to submit its stand on liquidation of dues of the respondent no. 3.

6. It would thus be evident that the objection raised by the petitioner with regard to maintainability of the case before the Council for want of territorial jurisdiction has not been rejected. It has rather been observed by the Council that the said issue will be decided in terms of law. Thus, the submission of the learned counsel for the petitioner that the Council does not intend to decide the issue of maintainability of the case on the ground of territorial jurisdiction etc., does not appear to be correct. However, it appears to the Court that since the issue with regard to territorial jurisdiction raised by the petitioner is important and foundational in nature, the Council is required to take up the said aspect as first issue as and when it decides to take up the case on merit after providing opportunity of hearing to the representatives of the petitioner as well as the respondent no. 3.

7. The writ petition is accordingly disposed of with aforesaid observation and direction.

(Rajesh Shankar, J.)