



2025:DHC:5123



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2706/2025, CM APPL. Nos. 12870/2025, 12871/2025 and
20402/2025

AMBUJ HOTEL AND REAL ESTATE PVT. LTD. THROUGH ITS
DIRECTORPetitioner

Through: Mr. Kirti Uppal, Senior Advocate
with Mr.Sulalit Singh Sisodia, Ms.
Riya Gulati, Ms.Archita Satyarthi and
Mr. Jagesh Singh, Advocates

versus

UNION OF INDIA AND ANR.Respondents

Through: Mr.Vineet Dhanda, CGSC with Mr.
Saksham Sethi, Ms.Shweta Shandilya
and Ms.Medha Haridas, Advocates
for R-1/IOI
Mr. Ajay Sharma, Mr. Harsh Khabar,
Mr. Anshuman Chowdhury, Mr.
Saurav Agrawal, Advocates for R-2
(M:9873861611)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT
01.07.2025

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MINI PUSHKARNA, J:

1. The present petition has been filed under Article 226 of the
Constitution of India, *inter alia*, seeking directions to enforce the Letter of



Commencement dated 19th December, 2024, issued by respondent no. 2, i.e., Indian Railway Catering and Tourism Corporation Ltd. (“IRCTC”), thereby, directing the respondent no. 2 to hand over the train no. 20707-08, SC-VSKP Vande Bharat Exp (“subject train”) to the petitioner for on-board catering services. The petitioner has also challenged the demand letters and reminders thereof dated 10th January, 2025, 15th January, 2025, 18th January, 2025 and 17th February, 2025 issued by respondent no. 2 for an increased license fee, on account of augmentation in the number of coaches from 8 to 16, thereby, demanding levy of pro-rata license fee as per Clause 3.3 of Master License Agreement.

2. Facts, as canvassed in the petition, are as follows:

2.1 The petitioner participated in a bid for on-board catering services floated by IRCTC, for on-board catering services for a period of five years, further extendable up to two years.

2.2. The petitioner was issued a Letter of Award dated 7th August, 2024, whereby, the petitioner was awarded the contract for on-board services for the subject train. As per the Letter of Award, the annual license fee for the subject train was fixed at Rs. 1,80,00,000/- (excluding GST).

2.3 The petitioner accepted the award *vide* Letter of Acceptance dated 22nd August, 2024. Upon the petitioner depositing the aforesaid amount of annual license fee and complying with other terms and conditions, it was issued the Letter of Commencement dated 19th December, 2024, for commencement of operations for the on-board catering services in the subject train.

2.4 On 10th January, 2025, IRCTC, South Central Zone, Secunderabad, informed the petitioner that South Central Railways had permanently



augmented the number of coaches for the subject train from 8 to 16. Therefore, the petitioner was liable to pay additional license fee to the tune of Rs. 2,12,40,000/- (including GST), in terms of Clause 3.3 of the Master License Agreement.

2.5 Subsequently, respondent no. 2-IRCTC issued reminder letters dated 15th January, 2025, 18th January, 2025 and 17th February, 2025 to the petitioner, to remit the amount of additional license fee, immediately.

2.6 The petitioner sent replies dated 16th January, 2025 and 21st January, 2025 to the demand letters disputing the payment of demand of the aforesaid additional amount of license fee.

2.7 Since the respondent no.2-IRCTC has failed to handover the train and the petitioner disputes the demand as arbitrary, the present writ petition has been filed.

3. On behalf of the petitioner, it is submitted as follows:

3.1 As per the bid document, the subject train consisted of 21 coaches and only after evaluation of the bid by the petitioner, it has been awarded the contract, pursuant to which, the petitioner paid the requisite license fee and security deposit.

3.2 The petitioner received Letter of Commencement dated 19th December, 2024, wherein, the license fee as per the Letter of Award dated 09th August, 2024, was admittedly received. The demand of increased license fee is erroneous, as the bid document itself, mentioned the details of coaches in the subject train to be 21. The respondent no. 2 has put up a wrong case that the same was a typographical error, and that instead of 21 coaches, the actual number of coaches was 8, at the time of floating of the tender.



3.3 *Vide* Corrigendum no.3 of the Master License Agreement dated 16th February, 2024, Clause 3.3 of Master License Agreement has been modified, and the line stating increase/decrease of license fee on the basis of change in ‘*coach composition*’ of the train, has been deleted and the same does not exist.

3.4 Demand of license fee by respondent no. 2 on the basis of change in coach composition and with a pro-rata increase is totally unfair, arbitrary and illegal and not at all in accordance with Clause 3.3 of the Master License Agreement, bidding document, and Corrigendum no. 3 dated 16th February, 2024.

3.5 Despite issuance of Letter of Commencement dated 19th December, 2024, the petitioner has not been handed over the subject train, which is a direct violation of the terms agreed upon in the Letter of Award and Letter of Commencement. Respondent no. 2, despite issuance of Letter of Commencement on 19th December, 2024, has failed to adhere to the timelines and procedures set forth in the contract, and the bidding documents. The petitioner has fully complied with the terms of the agreement, including, the payment of the entire annual license fee, as stipulated in the Letter of Award.

3.6 The petitioner is incurring significant financial losses, due to the respondent no.2’s failure to hand over the train on time. The petitioner is entitled to commence operations immediately as per the Letter of Commencement and the terms of the contract.

3.7 The Master License Agreement and pre-bid clarification issued on 16th February, 2024, do not provide for such an increase in the license fee based on coach composition. The petitioner is entitled to the fixed annual



license fee as per the terms of the agreement, and no revision should be made unless there is a clear basis, which is absent in this case.

3.8 The respondent no.2 has failed to provide the data for the basis of calculation of the increased license fee, thus, the lack of transparency is an arbitrary action by respondent no.2. Further, the said action is against the Railway Policy.

3.9 The respondent no. 2 is estopped from making the demand for an increased license fee under the principle of promissory estoppel.

4. On the other hand, submissions on behalf of respondent no. 2, are as follows:

4.1 The present writ petition is not maintainable, as the same has been filed seeking relief of enforcement of a commercial contract entered with the respondent no. 2, having no statutory or constitutional flavour. The issues regarding interpretation of commercial contracts or disputes relating to questions of facts, are not to be raised by way of writ petition.

4.2 Even questions of alleged breach of contract would not be ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

4.3 The writ petition is further not maintainable, as there is already an alternate and efficacious remedy available in the form of arbitration clause in the subject contract.

4.4 The present writ petition is also not maintainable, since no cause of action arises in Delhi. The prayers in the writ, seeking enforcement of the Letter of Commencement dated 19th December, 2024, as well as setting aside of notices in question, have all been issued by the Secunderabad Zonal Office of respondent no. 2 to the registered office of the petitioner in



Varanasi, Uttar Pradesh.

4.5 The true purport, meaning and interpretation of the various documents, including, the bid document, the Master License Agreement, the Letter of Award and Letter of Commencement, itself is mixed question of fact and law, that requires detailed examination.

4.6 The South Central Railways issued a letter present in the public domain informing that a new Vande Bharat Express Train number 20707-20708 (the subject train) was being introduced between Secunderabad-Vishakhapatnam from 13th March, 2024. Further, IRCTC had issued *ad-hoc* tenders for a period of three to six months, and awarded the contract to various licensees, wherein, in all the tenders, it was stated that the subject train comprised of eight coaches, however, due to an inadvertent typographical error in the subject tender, incorrect number of coaches was mentioned for the subject train.

4.7 The respondent no. 2 had given a 'Disclaimer' in the bid document towards not giving any representation regarding the accuracy of the information and requiring bidders to verify from appropriate sources.

5. I have heard learned counsels for the parties and have perused the record.

6. By way of the present writ petition, the petitioner has raised the dispute that it is not liable to pay the enhanced license fee on pro-rata basis, as demanded by respondent no. 2, on the ground of increase in the number of coaches in the subject train from 8 to 16. The two premises on which the present petition is based, are, *firstly* the bid document stated number of coaches in the subject train to be 21 and the petitioner had accordingly bid for the same. *Secondly*, Clause 3.3 of the Master License Agreement and bid



clarification Corrigendum no. 3 issued on 16th February, 2024, do not provide for such an increase in the license fee based on coach composition. As per the case put forth by the petitioner, it is entitled to fixed annual license fee as per the terms of the agreement and no revision can be allowed.

7. On the other hand, as per the respondent no. 2, the information about the subject train, including, type and number of coaches, i.e., only 8 coaches, as operated by the South Central Railway, was common knowledge. In the previous *ad-hoc* tenders for the subject train, it had clearly been stated that the subject train comprised of 8 coaches. The number of coaches in the subject train as were mentioned in the tender, was due to an inadvertent typographical error in the tender. Further, the tender document provided for the ‘*Disclaimer*’ whereby, IRCTC did not make any representation and warranty as to the accuracy, reliability or competence of the information in the bid document, and all bidders were to conduct their own investigations and analysis to check the accuracy, reliability and competence of the bid document. The relevant part of the bid document, as relied upon by the respondent no. 2, is reproduced as under:

“xxx xxx xxx”

DISCLAIMER

a. Indian Railway Catering & Tourism Corporation Ltd., herein after mentioned as “IRCTC” does not make any representation or warranty as to the accuracy, reliability or completeness of the information in this Bid Document. Therefore, each Bidder should conduct their own investigations and analysis and check the accuracy, reliability and completeness of the information in this Bid Document and obtain independent advice from appropriate sources. The Bidder shall bear all its costs associated with the preparation and submission of its Bid including expenses associated with any clarifications which may be required by IRCTC or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and IRCTC shall not be liable in any manner.
xxx xxx xxx”



(Emphasis Supplied)

8. This Court takes note of the submission of respondent no. 2 as regards the knowledge of the petitioner *qua* the actual number of coaches on the subject train, as given in its reply dated 21st April, 2025 to the *CM Appl.* 20402/2025, as follows:

“xxx xxx xxx

27. In any event, the Petitioner is one of the largest onboard caterers in India supplying thousands of meals on hundreds of trains every day and it is not plausible for the Petitioner to state that it was unaware about the actual number of coaches on the Subject Train. Further, it is also not plausible that the Petitioner would have not raised any objection if the number of coaches would have reduced from the purported 21 to 8 that too without any formal notification by the Railways, as the Petitioner is now seeking to contend.

xxx xxx xxx”

(Emphasis Supplied)

9. Perusal of the aforesaid submissions of the parties clearly show that the present dispute essentially involves interpretation of terms of the contract between the parties, and questions regarding factual matrix as regards the number of coaches in the subject train at the time of issuance of the tender. The petitioner has raised grounds alleging delay in failure to honor the contractual obligations and the demand of respondent no. 2 for additional license fees, as being contrary to the agreed terms.

10. While the petitioner has contended that it bid in the tender for the subject train on the basis of information that the same had 21 coaches, the respondent no. 2 has clearly disputed the same, as being only a typographical error. Further, the respondent no. 2 is relying upon letter dated 10th March, 2024, received from the South Central Railways, wherein, it is clearly recorded that the subject train was being introduced from 13th March, 2024 with 8 coaches. The letter dated 10th March, 2024, issued by South



Central Railway, is reproduced as under:

From: SCR.ZN/SCR/IR/IN
To: SC.DV/SC/SCR/IR/IN@icms, BZA.DV/BZA/SCR/IR/IN@icms,
ECOR.ZN/ECOR/IR/IN@icms, PAMCELL.RB/IR/IN@icms, CHGCELL.RB/IR/IN@icms

Date: Sunday, March 10, 2024 04:21PM

Subject: CORRECTED Introduction of VANDE BHARAT Express between Secunderabad-
Visakhapatnam- Secunderabad.

SOUTH CENTRAL RAILWAY

Headquarter Office
Transportation Branch
Secunderabad.

No.T.454/Introduction SC-VSKP Vande Bharat Express.
Date:10.03.2024.

DRMs/SC & BZA
CCM/PS,CCM/PM, CPRO/SCR
CRSE,CESE,CELE,CEE(Plg & Op)/SCR
CPTM/ECORly
C/- PED/Chg/INDB.

Sub: **CORRECTED** Introduction of VANDE BHARAT Express between Secunderabad-
Visakhapatnam- Secunderabad.

Ref: Railway Board Message No.2022/CHG/16/82 PT 28 dated 09.03.2024..

X-X-X

With reference to above, it is decided to introduce VANDE BHARAT Express train between. Secunderabad-
Visakhapatnam- Secunderabad The details are as under:

(A) Train No. 02707 (Secunderabad-Visakhapatnam) VANDE BHARAT Inaugural Special (One way) #

- (i) Day of run- 12.03.2024 (TUE) Ex-Secunderabad (One way)
(ii) Composition: DTC-2, MC- 4, TC-2 = 8 Vande Bharat Coaches
(iii) PM: Secunderabad with RBPC
(iv) Tentative Timings:

STATIONS	SC-VSKP	
	Arrival	Departure
SECUNDERABAD	--	09.15
WARANGAL	11.05	11.07
KHAMMAM	12.24	12.25
KONDAPALLI	Through	13.50
VIJAYAWADA	13.50	13.55
RAJAMUNDY	15.55	15.57
SAMALKOT	16.33	16.35
DUVVADA	Through	19.30
VISAKHAPATHAM	20.00	--

No Commercial booking of passengers through PRS.

(A) Introduction of regular service of Train No. 20707/20708 SC-VSKP-SC Vande Bharat express (6 Days in a week except Thursday) will be from 13.03.24 Ex.VSKP and 15.03.24 Ex-SC . The details are as under:-

**(B) Train No. 20707/20708 (SECUNDERABAD-VISAKHAPATNAM- SECUNDERABAD) VANDE BHARAT EXPRESS**

- (i) Route:- Kazipet, Vijayawada, Rajamundry
(ii) Frequency:-Six days in week (Except Thursday)
(iii) Days of Regular run: Ex- SC as Train No. 20707 w.e.f. **15.03.2024**
Ex- VSKP as Train No. 20708 w.e.f. **13.03.2024**
(iv) Composition: DTC-2, MC- 4, TC-2 = 08 Vande Bharat Coaches
(v) Commercial Stoppages: Warangal, Khammam, Vijayawada, Rajamundry, Samalkot
(vi) Maintenance: PM at Secunderabad , OEM at Visakhapatnam
(vii) Fare: Vande Bharat Fare (Fully reserved)
(viii) Timings & Stoppages:

20707 SC-VSKP		STATIONS	20708 VSKP-SC	
Arrival	Departure		Arrival	Departure
	05.05	SECUNDERABAD	23.20	
06.39	06.40	WARANGAL	21.03	21.05
07.43	07.45	KHAMMAM	20.03	20.05
--	09.00 Through	KONDAPALLI	--	19.20 Through
09.05	09.10	VIJAYAWADA	18.40	18.45
11.00	11.02	RAJAMUNDRI	16.38	16.40
11.43	11.45	SAMALKOT	16.03	16.05
--	13.25	DUVVADA	--	14.55
13.50	--	VISAKHAPATNAM	--	14.35

(ix) Booked Speed: As per MPS of the sections

Remarks:- (I) After arrival of Inaugural special Train No. 02707 SC-VSKP Vande Bharat Express at VSKP, rake will pick up regular service of train no. 20708 VSKP-SC Vande Bharat Express on JCO 13.03.2024

Sr.DOM, Sr.DME, Sr.DEE/SC and BZA are requested to issue necessary instructions to keep copy of the notification with concerned Loco Pilot & Train Manager for working these trains.

Please note and notify all concerned.

M.Yelvender Yadav
CPTM/SCR

11. Further, the respondent no. 2 has relied upon Clause 3.3 of the Master License Agreement to submit that as per the same, the license fee can be



increased/decreased on a pro-rata basis due to increase/decrease in the scope of work. The submission of the respondent no. 2 in this regard as given in its reply to the present petition, is reproduced as under:

“xxx xxx xxx

29. In terms of Clause 3.3 of the MLA, the license fee "shall be increased/decreased on a pro rata basis" due to "any increase/decrease in the scope of work/ business such as increase/decrease in frequency, no. off reduction in route leading to increase/ leading to increase/ decrease in services, extension/ increase of additional services etc.,". As would be apparent, due to the Railways' permanent augmentation of 16 coaches from the existing 08 coaches in Train No. 20707-08 SC-VSKP VANDE BHARAT Exp, there would be pro-rate increase in the license fee on account of the increase in the scope of work/business of the caterer. Notably, change of composition of train had been notified prior to takeover of the train by the Petitioner under the cluster contract. In such case, submission of "advanced" license fee (pro-rata) is prerogative of the Petitioner and the demand notice was issued in accordance with the tender terms.

xxx xxx xxx”

(Emphasis Supplied)

12. Thus, the questions raised in the present writ petition essentially pertain to enforcement of contractual rights. The present writ petition has been filed under Article 226 of the Constitution of India, which confers extraordinary jurisdiction on the High Court to issue writs for enforcement of fundamental rights. Courts do not ordinarily entertain petitions involving enforcement of purely contractual rights, especially, where it is necessary to enquire into facts involving recording of oral evidence. Thus, the true purport, meaning and interpretation of the various documents referred, such as pre-bidding clarification dated 16th February, 2024, Corrigendum no. 3 dated 16th February, 2024, bid document dated 7th June, 2024, Master License Agreement between the parties, Letter of Award dated 7th August,



2024 and Letter of Commencement dated 19th December, 2024, itself is mixed question of fact and law, requiring detailed examination. Whether, the Master License Agreement and pre-bid clarification issued on 16th February, 2024, do not provide for an increase in the license fee based on coach composition, or whether the petitioner is entitled to the fixed annual license fee as per the terms of the agreement, are all questions related to interpretation of the contractual terms. Thus, these questions related to interpretation of the terms of the contract, cannot be decided in writ proceedings.

13. Holding that a dispute relating to interpretation and implementation of the terms and conditions of a contract, cannot be the subject matter of a writ petition, and that a writ court was not the proper forum for contractual disputes, Supreme Court in the case of ***Pimpri Chinchwad Municipal Corporation and Others Versus Gayatri Construction Company and Another***, 2008 SCC Online SC 1203, has held as follows:

“xxx xxx xxx

12. In National Highways Authority of India v. Ganga Enterprises [(2003) 7 SCC 410] it was inter alia held as follows : (SCC p. 415, para 6)

“6. The respondent then filed a writ petition in the High Court for refund of the amount. On the pleadings before it, the High Court raised two questions viz.: (a) whether the forfeiture of security deposit is without authority of law and without any binding contract between the parties and also contrary to Section 5 of the Contract Act; and (b) whether the writ petition is maintainable in a claim arising out of a breach of contract. Question (b) should have been first answered as it would go to the root of the matter. The High Court instead considered Question (a) and then chose not to answer Question (b). In our view, the answer to Question (b) is clear. It is settled law that disputes relating to contracts cannot be agitated under Article 226 of the Constitution of India. It has been so held in Kerala SEB v. Kurien E. Kalathil [(2000) 6 SCC 293], State of



*U.P. v. Bridge & Roof Co. (India) Ltd. [(1996) 6 SCC 22] and Bareilly Development Authority v. Ajai Pal Singh [(1989) 2 SCC 116]. This is settled law. **The dispute in this case was regarding the terms of offer. They were thus contractual disputes in respect of which a writ court was not the proper forum.** Mr Dave, however, relied upon *Verigamto Naveen v. Govt. of A.P. [(2001) 8 SCC 344]* and *Harminster Singh Arora v. Union of India [(1986) 3 SCC 247]*. These, however, are cases where the writ court was enforcing a statutory right or duty. These cases do not lay down that a writ court can interfere in a matter of contract only. Thus on the ground of maintainability the petition should have been dismissed.”*

13. In Kerala SEB v. Kurien E. Kalathil [(2000) 6 SCC 293] this Court dealt with the question of maintainability of petition under Article 226 of the Constitution and the desirability of exhaustion of remedies and availability of alternative remedies, as also difference between statutory contracts and non-statutory contracts. In paras 10 and 11 of the judgment it was noted as follows: (SCC pp. 298-99)

*“10. We find that there is a merit in the first contention of Mr Raval. Learned counsel has rightly questioned the maintainability of the writ petition. **The interpretation and implementation of a clause in a contract cannot be the subject-matter of a writ petition. Whether the contract envisages actual payment or not is a question of construction of contract. If a term of a contract is violated, ordinarily the remedy is not the writ petition under Article 226.** We are also unable to agree with the observations of the High Court that the contractor was seeking enforcement of a statutory contract. **A contract would not become statutory simply because it is for construction of a public utility and it has been awarded by a statutory body. We are also unable to agree with the observation of the High Court that since the obligations imposed by the contract on the contracting parties come within the purview of the Contract Act, that would not make the contract statutory.** Clearly, the High Court fell into an error in coming to the conclusion that the contract in question was statutory in nature.*

*11. A statute may expressly or impliedly confer power on a statutory body to enter into contracts in order to enable it to discharge its functions. Dispute arising out of the terms of such contracts or alleged breaches have to be settled by the ordinary principles of law of contract. **The fact that one of the parties to the agreement is a statutory or public body will not by itself***



affect the principles to be applied. The disputes about the meaning of a covenant in a contract or its enforceability have to be determined according to the usual principles of the Contract Act. Every act of a statutory body need not necessarily involve an exercise of statutory power. Statutory bodies, like private parties, have power to contract or deal with property. Such activities may not raise any issue of public law. In the present case, it has not been shown how the contract is statutory. The contract between the parties is in the realm of private law. It is not a statutory contract. The disputes relating to interpretation of the terms and conditions of such a contract could not have been agitated in a petition under Article 226 of the Constitution of India. That is a matter for adjudication by a civil court or in arbitration if provided for in the contract. Whether any amount is due and if so, how much and refusal of the appellant to pay it is justified or not, are not the matters which could have been agitated and decided in a writ petition. The contractor should have relegated to other remedies.”

14. Reference can also be made to State of Gujarat v. Meghji Pethraj Shah Charitable Trust [(1994) 3 SCC 552]. In para 22 it was observed as follows: (SCC pp. 568-69)

“22. We are unable to see any substance in the argument that the termination of arrangement without observing the principle of natural justice (*audi alteram partem*) is void. The termination is not a quasi-judicial act by any stretch of imagination; hence it was not necessary to observe the principles of natural justice. It is not also an executive or administrative act to attract the duty to act fairly. It was—as has been repeatedly urged by Shri Ramaswamy—a matter governed by a contract/agreement between the parties. If the matter is governed by a contract, the writ petition is not maintainable since it is a public law remedy and is not available in private law field e.g. where the matter is governed by a non-statutory contract. Be that as it may, in view of our opinion on the main question, it is not necessary to pursue this reasoning further.”

15. Again, in *State of U.P. v. Bridge & Roof Co. (India) Ltd.* [(1996) 6 SCC 22] this Court dealt with the issue in paras 15 and 16 in the following manner: (SCC p. 30)

“15. In our opinion, the very remedy adopted by the respondent is misconceived. It is not entitled to any relief in these proceedings i.e. in the writ petition filed by it. The High Court appears to be right in not pronouncing upon any of the several



contentions raised in the writ petition by both the parties and in merely reiterating the effect of the order of the Deputy Commissioner made under the proviso to Section 8-D(1).

16. Firstly, the contract between the parties is a contract in the realm of private law. It is not a statutory contract. It is governed by the provisions of the Contract Act or, maybe, also by certain provisions of the Sale of Goods Act. Any dispute relating to interpretation of the terms and conditions of such a contract cannot be agitated, and could not have been agitated, in a writ petition. That is a matter either for arbitration as provided by the contract or for the civil court, as the case may be. Whether any amount is due to the respondent from the appellant Government under the contract and, if so, how much and the further question whether retention or refusal to pay any amount by the Government is justified, or not, are all matters which cannot be agitated in or adjudicated upon in a writ petition. The prayer in the writ petition viz. to restrain the Government from deducting a particular amount from the writ petitioner's bill(s) was not a prayer which could be granted by the High Court under Article 226. Indeed, the High Court has not granted the said prayer."

xxx xxx xxx"

(Emphasis Supplied)

14. Further, this Court notes that Clause 9 of the Master License Agreement, contains an arbitration clause, which reads as under:

9. ARBITRATION

9.1	<p>a. In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract or the respective right and liability of the parties on any matter in question, with reference to the contract, the Parties agree to use their best efforts to attempt to resolve all disputes in prompt, equitable and good faith. In the event the Parties are unable to do so, such party may submit demand in writing for reference of dispute to arbitration as prescribed herein.</p> <p>b. The parties hereto further agree to waive off the applicability of sub-section 12 (5) of Arbitration and Conciliation (Amendment) Act 2015 and will submit demand in writing that the dispute/differences be referred to arbitration along with format annexed hereto as Annexure-- L. The demand for arbitration shall specified the matters which are in question, or subject of dispute or differences as also the amount of claim item wise.</p> <p>c. Only such dispute or differences, in respect of which the demand has been made, together with counter claims of setoff given by IRCTC shall be referred to arbitration and other matters shall not included in the reference.</p>
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	In the event of demand made as mention herein above, such dispute or difference arising under any of these conditions or in connection with this contract (except as to any matters the decision of which is specially provided by these or the special conditions) shall be referred to Sole Arbitrator from IRCTC's empanelled Arbitrators. The award of arbitrator shall be final and binding on the parties to this contract. The venue of the Arbitration shall be at New Delhi. The fees and expenses of the Arbitration tribunal and all other expenses of the Arbitration shall be borne jointly by the Parties in equal proportion subject to determination by the Arbitration tribunal.
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15. A perusal of the above sets forth that any dispute or difference between the parties as to the construction or operation of the contract or any right or liability with reference to the contract, will be subject matter of arbitration.

16. Thus, it is apparent that there is an alternate efficacious remedy available in the form of an arbitration clause in the subject contract. It has been held time and again that a writ court would ordinarily not exercise its discretionary jurisdiction, when there exists, an arbitration agreement between the parties.

17. Thus, while holding that seriously disputed questions or rival claims arising out of breach of contract are required to be investigated and determined on basis of evidence, and that when an alternative and equally efficacious remedy is available to a litigant, he should pursue that remedy and not invoke writ jurisdiction, Supreme Court in the case of *State of Bihar and Others Versus Jain Plastics and Chemicals Ltd., (2002) 1 SCC 216*, has held as follows:

“xxx xxx xxx

3. Settled law — writ is not the remedy for enforcing contractual obligations. It is to be reiterated that writ petition under Article 226 is not the proper proceedings for adjudicating such disputes. Under the law, it was open to the respondent to approach the court of competent jurisdiction for appropriate relief for breach of contract. It is settled law that when an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that



remedy and not invoke the writ jurisdiction of the High Court. Equally, the existence of alternative remedy does not affect the jurisdiction of the court to issue writ, but ordinarily that would be a good ground in refusing to exercise the discretion under Article 226.

xxx xxx xxx

7. In our view, it is apparent that the order passed by the High Court is, on the face of it, illegal and erroneous. It is true that many matters could be decided after referring to the contentions raised in the affidavits and counter-affidavits, but that would hardly be a ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution in case of alleged breach of contract. Whether the alleged non-supply of road permits by the appellants would justify breach of contract by the respondent would depend upon facts and evidence and is not required to be decided or dealt with in a writ petition. Such seriously disputed questions or rival claims of the parties with regard to breach of contract are to be investigated and determined on the basis of evidence which may be led by the parties in a properly instituted civil suit rather than by a court exercising prerogative of issuing writs.

xxx xxx xxx”

(Emphasis Supplied)

18. Likewise, Supreme Court in the case of *Empire Jute Company Limited and Others Versus Jute Corporation of India Limited and Another*, (2007) 14 SCC 680, has held as follows:

“xxx xxx xxx

14. Construction of the contract entered into by and between the parties is in question before us. There exists an arbitration agreement. The arbitration agreement is of wide amplitude; by reason whereof not only the dispute relating to quality of the jute sought to be supplied by Respondent 1 may be gone into, the construction, meaning and operation and effect of the contract or breach thereof, if any, would have also fallen for determination of an arbitrator.

15. It is not correct to contend that Clause 8.0 provides for procedure for claim settlement. The said provision in regard to the quality of jute supplied has in our opinion nothing to do with Clause 9.0. The arbitration agreement entered into by and between the parties is independent of Clause 8.0. It is now well settled that when there exists an arbitration agreement, the writ court ordinarily would not exercise its discretionary jurisdiction to enter into the dispute.



xxx xxx xxx

19. Similar question arose for consideration in *Bisra Lime Stone Co. Ltd. v. Orissa SEB* [(1976) 2 SCC 167 : AIR 1976 SC 127] wherein it was held that the High Court may refuse to exercise its jurisdiction, if there exists a valid arbitration clause stating: (SCC p. 174, para 24)

“24. It is then submitted that this Court should not use its discretion in favour of arbitration in a matter where it is a pure question of law as to the power of the Board to levy a surcharge. This submission would have great force if the sole question involved were the scope and ambit of the power of the Board under Sections 49 and 59 of the Act to levy a surcharge, as it was sought to be initially argued. The question in that event may not have been within the content of Clause 23 of the agreement. But all questions of law, one of which may be interpretation of the agreement, need not necessarily be withdrawn from the domestic forum because the court has discretion under Section 34 of the Arbitration Act or under Article 226 of the Constitution and that the court is better posted to decide such questions. The arbitration Clause 23 is a clause of wide amplitude taking in its sweep even interpretation of the agreement and necessarily, therefore, of Clause 13 therein. We are, therefore, unable to accede to the submission that we should exercise our discretion to withhold the matter from arbitration and deal with it ourselves.”

20. A similar view was taken by this Court in *Sanjana M. Wig v. Hindustan Petroleum Corpn. Ltd.* [(2005) 8 SCC 242] holding: (SCC p. 247, paras 12-13)

“12. The principal question which arises for consideration is as to whether a discretionary jurisdiction would be refused to be exercised solely on the ground of existence of an alternative remedy which is more efficacious. Ordinarily, when a dispute between the parties requires adjudication of disputed question of facts wherefor the parties are required to lead evidence both oral and documentary which can be determined by a domestic forum chosen by the parties, the Court may not entertain a writ application. (See *Titagarh Paper Mills Ltd. v. Orissa SEB* [(1975) 2 SCC 436] and *Bisra Lime Stone Co. Ltd. v. Orissa SEB* [(1976) 2 SCC 167; AIR 1976 SC 127].)



13. However, access to justice by way of public law remedy would not be denied when a lis involves public law character and when the forum chosen by the parties would not be in a position to grant appropriate relief.”

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24. As the disputed facts as also the law are required to be determined by the arbitrator, we are of the opinion that all disputes between the parties should be directed to be resolved upon taking recourse to the arbitration agreement contained in Clause 9.0 of the sale order.

xxx xxx xxx”

(Emphasis Supplied)

19. Thus, the position that emerges is that in respect of pure contractual matters in the field of private law, having no statutory flavor, the same are better adjudicated upon by the forum agreed to by the parties. (See: ***Union of India and Others Versus Puna Hinda, (2021) 10 SCC 690, Para 24***)

20. Reference may also be made to the judgment in the case of ***Life Insurance Corpn. of India and Others Versus Asha Goel (Smt) and Another, (2001) 2 SCC 160***, wherein, the Supreme Court has categorically held that if the contract entered between the parties, provides an alternate forum for resolution of disputes arising from the contract, then the parties should approach the forum agreed by them. Thus, it has been held as follows:

“xxx xxx xxx

10. Article 226 of the Constitution confers extraordinary jurisdiction on the High Court to issue high prerogative writs for enforcement of the fundamental rights or for any other purpose. It is wide and expansive. The Constitution does not place any fetter on exercise of the extraordinary jurisdiction. It is left to the discretion of the High Court. Therefore, it cannot be laid down as a general proposition of law that in no case the High Court can entertain a writ petition under Article 226 of the Constitution to enforce a claim under a life



insurance policy. It is neither possible nor proper to enumerate exhaustively the circumstances in which such a claim can or cannot be enforced by filing a writ petition. The determination of the question depends on consideration of several factors like, whether a writ petitioner is merely attempting to enforce his/her contractual rights or the case raises important questions of law and constitutional issues, the nature of the dispute raised; the nature of inquiry necessary for determination of the dispute etc. The matter is to be considered in the facts and circumstances of each case. While the jurisdiction of the High Court to entertain a writ petition under Article 226 of the Constitution cannot be denied altogether, courts must bear in mind the self-imposed restriction consistently followed by High Courts all these years after the constitutional power came into existence in not entertaining writ petitions filed for enforcement of purely contractual rights and obligations which involve disputed questions of facts. The courts have consistently taken the view that in a case where for determination of the dispute raised, it is necessary to inquire into facts for determination of which it may become necessary to record oral evidence a proceeding under Article 226 of the Constitution, is not the appropriate forum. The position is also well settled that if the contract entered between the parties provide an alternate forum for resolution of disputes arising from the contract, then the parties should approach the forum agreed by them and the High Court in writ jurisdiction should not permit them to bypass the agreed forum of dispute resolution. At the cost of repetition it may be stated that in the above discussions we have only indicated some of the circumstances in which the High Court have declined to entertain petitions filed under Article 226 of the Constitution for enforcement of contractual rights and obligation; the discussions are not intended to be exhaustive. This Court from time to time disapproved of a High Court entertaining a petition under Article 226 of the Constitution in matters of enforcement of contractual rights and obligation particularly where the claim by one party is contested by the other and adjudication of the dispute requires inquiry into facts. We may notice a few such cases; Mohd. Hanif v. State of Assam [(1969) 2 SCC 782]; Banchhanidhi Rath v. State of Orissa [(1972) 4 SCC 781]; Rukmanibai Gupta v. Collector, Jabalpur [(1980) 4 SCC 556]; Food Corpn. of India v. Jagannath Dutta [1993 Supp (3) SCC 635] and State of H.P. v. Raja Mahendra Pal [(1999) 4 SCC 43].

xxx xxx xxx”

(Emphasis Supplied)

21. Likewise, in the case **M.P. Power Management Company Limited**,



Jabalpur Versus Sky Power Southeast Solar India Private Limited and Others, (2023) 2 SCC 703, Supreme Court has held as follows:

“xxx xxx xxx

82.7. The existence of an alternate remedy, is, undoubtedly, a matter to be borne in mind in declining relief in a writ petition in a contractual matter. Again, the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought. **Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.**

xxx xxx xxx”

(Emphasis Supplied)

22. Considering the aforesaid position of law, it is evident that the present writ petition is not maintainable and is liable to be dismissed. The questions raised before this Court, are purely contractual in nature, with there being an efficacious and alternate remedy by virtue of the arbitration clause in the agreement.

23. In view of the aforesaid finding, this Court is not required to go into the other issues, as raised in the present writ petition.

24. Accordingly, the present writ petition, along with the pending applications, stands dismissed.

**(MINI PUSHKARNA)
JUDGE**

JULY 1, 2025/ak