

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 3rd OF APRIL, 2024

WRIT PETITION No. 6939 of 2024

BETWEEN:-

FULKUNWAR W/O RATANSINGH RAJPUT, AGED ABOUT
50 YEARS, OCCUPATION: AGRICULTURE R/O GRAM
DHAMNOD DISTT. RATLAM (MADHYA PRADESH)

... PETITIONER

(BY SHRI V.A.KATKANI, ADVOCATE)

AND

1. SAKSHAM PRADIKARI / ANUVIBHAGIYA
ADHIKARI RAJASV RATLAM GRAMIN DISTT.
RATLAM (MADHYA PRADESH)
2. KENDRIYA SARKAR BHARTIYA RASHTRIYA
RAJMARG PRADHIKARAN (SADAK PARIVAHAN
AND RAJMARG MANTRALAYA) DWARA
PARIYOJNA NIRDESHAK BHARTIYA RASHTRIYA
RAJMARG PRADHIKARAN PARIYOJNA
KRIYANVAYAN IKAI RATLAM RATLAM (MADHYA
PRADESH)

...RESPONDENTS

(SHRI ANAND SONI, ADDITIONAL A.G.)

This petition coming on for admission this day, Justice Sushrut Arvind

Dharmadhikari passed the following:

ORDER

Heard on the question of admission and interim relief.

In this writ petition under Article 226 of the Constitution of India the petitioner has challenged the order dated 03.08.2023 (**Annexure P/4**) passed by

the Arbitrator (Collector), Ratlam in Case No. **15/Appeal/2023-2024**.

2 . Learned counsel for the respondent/State has raised the preliminary objections as to Maintainability of Writ Petition on the ground that the petitioner has alternative statutory remedy of filing an application under Section 34 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as "Act of 1996) before the competent Court challenging the award of the Arbitrator. Admittedly, in the present case, the Collector being the Arbitrator has decided the application filed by the petitioner under Section 3(G)(5) of the National Highways Act, 1956 (hereinafter referred to as "Act of 1956), therefore, as per Section 3(G)(6) of the Act, the provisions of the Act of 1996 shall apply to every arbitration under this Act.

3. On the other hand, learned counsel for the petitioner admitted the fact that he has statutory alternative efficacious remedy available under Section 34 of the Act of 1996, however, certain other issues have been raised in the present writ petition, therefore, the same is maintainable.

4. Heard the learned counsel for the parties and perused the record.

5. On perusal of the writ petition, it is seen that efficacious alternative remedy being available, the petitioner would be at liberty to assail all the grounds raised in this writ petition. The statutory remedies under the Act of 1996 as well as the Act of 1956 cannot be bypassed by the petitioner, especially when after the stage of adjudication under Section 34 of the Act, the parties/petitioner would have statutory remedy of approaching the High Court in appeal under Section 37 of the Act of 1996.

6. The Apex Court in the case of **Hindustan Coca Cola Beverage Private Ltd vs. Union of India and others** reported in (2014) 15 SCC 44, in

which it is held that:- "when the statute provides for statutory appeal, the said remedy is to be availed by the litigating parties". In **Hameed Kunju vs. Nizam (2017) 8 SCC 611**, the Apex Court held that any petition under Article 227 of Constitution of India should be dismissed *in limine* where there is statutory provision of appeal. In another case **Ansal Housing and Construction Limited vs. State of Uttar Pradesh and others (2016) 13 SCC 305**, it is held that when there statutory appeal is provided, then the said remedy has to be availed.

7. In view whereof, this Court is not inclined to entertain the writ petition. However, petitioner would be at liberty to avail the alternative remedy in accordance with law, if so advised.

8. Accordingly, the same is hereby dismissed.

No order as to cost.

(S. A. DHARMADHIKARI)
JUDGE

Vatan

(GAJENDRA SINGH)
JUDGE

