

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 618 of 2018

M/s Chanani Transport, a partnership firm registered under the partnership Act, 1932, having its registered office at Shivaji Road, Ramgarh Cantt., P.O & P.S- Ramgarh Cantt. District- Ramgarh, through one of its Partners Sri Dayanand Modi, age 58 years, resident of Ramgarh Cantt., P.O. & P.S. Ramgarh Cantt, District-Ramgarh. **Petitioner(s).**

Versus

1. Tenughat Vidyut Nigam Limited, a Government of Jharkhand Undertaking and is a company duly registered under the Companies Act, 1956, having its Head Office at Hinoo, PO & PS: Doranda, District-Ranchi - 834 002, through its Chairman.
2. Secretary, Tenughat Vidyut Nigam Limited, Hinoo, PO & PS: Doranda, District- Ranchi - 834 002.
3. Joint Secretary (Technical), Tenughat Vidyut Nigam Limited, Hinoo, PO & PS: Doranda, District- Ranchi -834 002.
4. General Manager-cum-Chief Engineer, Tenughat Thermal Power Station, Lalpania, PO & PS: Lalpania, District- Bokaro.
5. Managing Director, Tenughat Vidyut Nigam Limited, P.O. & P.S.- Doranda, Hinoo, Ranchi-834002. ... **Respondents.**

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s)	: Ms. Amrita Sinha, Advocate Mrs. Shweta Suman, Advocate Ms. Pragunee Kashyap, Advocate
For the Respondent	: Mr. Anoop Kumar Mehta, Advocate Mr. Shubham Malviya, Advocate

04/ 07.04.2026: Heard the learned counsel for the petitioner and the learned counsel for the respondents at length.

2. The petitioner in this writ petition has prayed for a mandamus upon the respondents to disburse the admitted amount and release the security deposit which the petitioner-company is entitled, on successful completion of the contract.

3. Admittedly, a contract was entered into between the respondents and the petitioner for transportation of coal from the collieries of the Central Coalfields Limited to Tenughat Thermal Power Station (T.T.P.S.), Lalpania. On completion of the work, the petitioner claimed for refund of the security deposit and the earnest deposit money as according to the petitioner, the said amount is an admitted due. Upon not being paid by the respondent-Central

Coalfields Limited, the petitioner filed this writ application under Article 226 of the Constitution of India claiming the said amount. The writ petition was filed on 03.02.2018 whereas the contract period came to an end on 31.08.2015, thus, the claim was within the period of limitation.

4. The respondents filed their counter affidavit.

5. According to the petitioner, the respondents have taken a plea that entire security deposit and the earnest money have been forfeited on the ground that along with the coal the petitioner had transported foreign materials such as stones, boulders, shells and pyrites. They submit that since the foreign materials which were prohibited was transported by the petitioner, the amount has to be recovered from the petitioner. Clause 11.10 of the NIT conditions was referred by the Central Coalfields Limited, which is in paragraph No.7 of their counter affidavit is quoted hereinbelow:

"7. That Clause 11.10 of the NIT Conditions (Annexure 1) reads as under:

"11.10 In case stones, boulders, shells, pyrites and other overburden are included and transported the same shall be segregated and transportation cost for this quantity of foreign material shall be recovered from the running bill of each contractor on monthly cumulative basis, besides levy of additional penalty @ 2% towards overheads. The certification of TVNL Engineer in-charge or his authorized representative shall be deemed to be final."

Further Clause 27.11 of the NIT Terms & Conditions for Transportation of Coal by Road from the Collieries of CCL to TTPS Lalpania (Annexure- 1) reads as under:

"27.11 If on receipt of coal loaded in vehicles at Tenughat Thermal Power Station coal yard, it is found that coal contain foreign materials like shales, stones, clay, mud, sand etc, Engineer-in-charge, Tenughat TPS or his representative will be at liberty to ask the contractor to take back the coal loaded into vehicle to the pithead of the colliery and unload the same there. In this case the contractor shall not be entitled to any transport charges, either for transport of coal from pithead of the colliery. If, however, the coal containing foreign materials as mentioned above is unloaded in the coal yard in such a way that it is not possible to segregate it and send it back to the colliery, the cost of the coal equivalent to foreign material unloaded will be realized from the contractors bills and he will not be entitled to claim the transport charge as well. The contractor shall depute

an authorized representative at TTPS site who shall be available at the site at all times and receive all communications or instructions from the engineer-in-charge, Tenughat TPS and arrange compliance of the same."

Similarly Clause 17.04 contained in Terms and Conditions of Work Order being WO No. 19/12-13 dated 17.08.2012 (Annexure 3) reads as under:

"17.04 In case stones, boulders, shells, pyrites and other overburden are included and transported the same shall be segregated and transportation cost for this quantity of foreign material shall be recovered from the running bill of each contractor on monthly cumulative basis, besides levy of additional penalty @ 2% towards overheads. The certification of TVNL Engineer in-charge or his authorized representative shall be deemed to be final."

6. It has also been mentioned that the release of the security deposit can be made in favour of the petitioner only after adjustment of coal value on account of transportation of stone by the petitioner mixed with transported quantity of coal to T.T.P.S. Lalpania.

7. Counsel for the petitioner opposes such deduction. She stated that for the first time this plea has been taken in the counter affidavit and for this long period never ever the respondents intimated the petitioner about the aforesaid objection. Further, it has been submitted that they have not violated any condition of contract which can attract forfeiture/ withholding of the earnest money and/or the security deposit. She contended that from time to time, the contract was extended and letters were issued but no penal action was taken against this petitioner. Thus, this defense which has been narrated in the counter affidavit is nothing but a means to deprive the petitioner of legal right.

8. From these facts, I find that there are several disputed question and it cannot be said that the dues which the petitioner is claiming is admitted by the respondents. The respondents are claiming that Rs.1,77,08,782.88/- is to be deducted from E.N.B./ security deposit, which the petitioner totally denies. This clearly suggest that the dues cannot be said to be admitted.

9. The claim of each of the parties need to be evaluated based on evidence, oral or documentary. This cannot be done in an application under Article 226

of the Constitution of India. Further, Clause 26.2 of the N.I.T. provides for arbitration, which reads as follows:

“26.2 Dispute relating to interpretations of conditions: In case any dispute or difference arise between the contractor and the engineer-in-charge, Tenughat TPS or his authorized representative or either of them up to any question relating to the interpretation of any of the conditions or clause or anything contained or as to any question, claim, rights or liabilities of the parties whether during the progress of the work or completion or abandonment thereof, then either party shall forthwith give to the other notice of such dispute/ difference making the specific amount of claim, if any and shall be referred to the sole arbitration of the Managing Director, Tenughat Vidyut Nigam Ltd., Ranchi or to an officer to be appointed by him to be arbitrator, shall be final conclusive and binding upon both the parties. The provisions of the Indian Arbitration Act of 1940 and any statutory modification thereof shall be applicable on such arbitrations”

The fact that there is an arbitration clause is admitted by both the parties.

10. Since there is an arbitration clause and the dues cannot be said to be admitted by the respondents and several question of facts needs to be adjudicated, I am not inclined to pass any favourable order in this writ petition in favour of the petitioner. The petitioner should invoke the arbitration clause by taking appropriate steps.

11. With the aforesaid observations, this writ petition is disposed of.

(ANANDA SEN, J.)

7th April, 2026
Madhav/-
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