

M/S. NOVA STEEL (INDIA) LTD.

A

v.

M.C.D. AND ORS.

JANUARY 6, 1995

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

B

Mercantile Law—Contract : Contract between parties—Non-execution of by party which agreed to supply certain materials—Show cause notice issued—No reply—Therefore party debarred for two years—Whether unwarranted or arbitrary—Held : No.

C

The petitioner had negotiated and agreed to supply 3000 Metric Tonnes of Tor Steel to the respondents, who had conveyed their acceptance, but the petitioner had not executed the contract. Therefore, the petitioner was issued a show cause notice as to why it should not be black-listed or debarred from having any dealings with the respondents. Since the petitioner did not give any reply, it was debarred to enter into contract for a period of two years. The petitioner challenged the said order before the High Court, but was not successful. Hence this Special Leave Petition.

D

Dismissing the petition, this Court

E

HELD : The conduct of the petitioner constrained the respondents to pass the order of black-listing. The exercise of the power, therefore, cannot be said to be unwarranted nor arbitrary nor irrelevant. The High Court, therefore, is right in declining to interfere with the offending order in exercise of its discretionary power under Article 226 of the Constitution. There is no ground warranting interference under Article 136. [108-F]

F

CIVIL APPELLATE JURISDICTION : Special Leave Petition No. 22863 of 1994.

G

From the Judgment and Order dated 28.9.94 of the Delhi High Court in C.W.P. No. 577 of 1994.

S.C. Gupta and R.K. Sharma for the Petitioner.

The following Order of the Court was delivered :

H

A This special leave petition arises from the order of the Division Bench of the High Court of Delhi dated September 28, 1994. Admittedly, the petitioner had negotiated and agreed to supply 3000 MT of Tor Steel to the respondents. Pursuant thereto, the respondents wrote a letter on February 15, 1993 conveying their acceptance and requested the petitioner to enter into the contract and also to start the supply of the steel immediately. Admittedly, the petitioner had not executed the contract. Thereafter, on March 19, 1993, the notice was issued to the petitioner to show cause as to why he should not be black-listed or debarred from having any dealings with the respondents. Even after the receipt of the notice, the petitioner had not given any reply. Consequently, on April 19, 1993, the respondents had debarred the petitioner to enter into the contract for a period of two years. The petitioner challenged the same in CWP No. 577/93. As stated earlier, the High Court refused to interfere with the order.

D It is thus clear that the petitioner having negotiated with the respondent to supply the iron and received the acceptance in that behalf, he was required to enter into the contract and to start supply immediately, had not done the same. Despite receipt of the notice of show cause, no reply thereto was given. The respondent necessarily has to take further action to get the supply of the required steel. Therefore, they exercised the power and issued notice to the petitioner which would be consistent with the principles of natural justice and passed the offending order black-listing the petitioner for a period of two years. The conduct of the petitioner constrained the respondents to pass the order of black-listing. The exercise of the power, therefore, cannot be said to be unwarranted nor arbitrary nor irrelevant. The High Court, therefore, is right in declining to interfere with the offending order in exercise of its discretionary power under Article 226 of the Constitution. We, therefore, find no ground warranting interference under Article 136. The S.L.P. is accordingly dismissed.

G.N.

Petitioner dismissed.