

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 10381 OF 2017

rites ltd

Appellant(s)

VERSUS

M/S DIRECTOR, UP TECHNICAL
EDUCATION & ORS.

Respondent(s)

O R D E R

1. This appeal is filed against the Judgment and Order dated 15.10.2012 passed by the High Court of Delhi in FAO No. 467 of 2010.

2. The appellant - RITES Ltd. had been appointed as a Consultant by the State of Uttar Pradesh, through its Department of Technical Education to ensure the performance of contract by Respondent No. 2, in whose favour a construction contract has been given.

3. In view of certain disputes that have arisen in the execution of the contract, Respondent No. 2 invoked the arbitration

proceedings impleading the appellant as the sole respondent. The appellant, in turn, contended that the principal employer is the State of Uttar Pradesh and filed an interlocutory application for impleading the State before the Arbitral Tribunal. Though the application was allowed, the Arbitral Tribunal passed an Award dated 24.09.2002 in favour of Respondent No.2 for an amount of Rs. 12,52,190/-. It is important to note that, though State Government was impleaded as a party to the proceedings, the Tribunal directed that the Award amount was to be paid by the appellant. Challenging the legality and validity of the Award, the appellant filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') and the learned Single Judge of the High Court, by Judgment and Order dated 05.02.2010, while upholding the Award, shifted the liability to the State, instead of the appellant herein. Against the judgment of the High Court, State filed an appeal under

Section 37 of the Act before the Division Bench of the High Court, contending that the liability is only of the appellant. Accepting the contention, the Division Bench allowed the appeal in part and directed the appellant to pay the Award amount.

4. This appeal is filed in the year 2013 and has been pending since then. We are informed that, pending disposal of the Section 34 Application, an Award amount of Rs.12,52,190/- has already been deposited. Respondent No. 2, the decree holder, could not withdraw even a single paisa pending disposal of the Section 34 and 37 Applications. Once the Award is passed, it is necessary for the Court exercising Section 34 jurisdiction to pass appropriate interim orders to balance the interests of the contesting parties. After Section 34 Application was dismissed, at least the Division Bench of the High Court exercising jurisdiction under Section 37 of the Act should have examined the matter as per the principles for enforcement of money decree

and passed appropriate interim orders. The only question that remains for consideration before this Court is whether the appellant or the State Government bears the liability to pay the amount. For this reason, there is no justification whatsoever to deprive the decree holder from receiving even a part of the Award amount.

5. Heard Mr. Udit Seth, learned counsel appearing for the appellant and Mr. Aslam Ahmed Jamal, learned counsel appearing for Respondent No. 2.

6. Mr. Udit Seth submitted that the liability to pay the Award, under no circumstances, could be on the appellant as it performed its obligations only as a consultant.

7. Having considered the matter in detail, we are of the opinion that the issue relating to the *inter-se* liability between the appellant and the respondent is unnecessary for our consideration. We will uphold the Award as confirmed by the learned Single Judge under

Section 34 of the Act as well as by the Division Bench under Section 37 of the Act. As regards the *inter-se* liability to pay the Award amount either by the RITES or by the State Government is a matter that they should settle among themselves. We are of the opinion that they have a joint and several liability towards the decree holder.

8. We leave it open to the appellant to adopt such measures and remedies as may be available to it in law to seek recovery of the amount from the State Government. We express no opinion on that issue.

9. As we are dismissing the appeal, respondent No. 2 will be entitled to withdraw the amount deposited along with the entirety of the interest accrued thereon. Upon filing of the necessary application, the High Court will release the amount deposited in favour of respondent No. 2.

10. With these directions, the appeal stands dismissed. No order as to costs.

11. Pending interlocutory application(s), if any, is/are disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
SEPTEMBER 24, 2026.

ITEM NO.102

COURT NO.5

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 10381/2017

RITES LTD

Appellant(s)

VERSUS

M/S DIRECTOR, UP TECHNICAL EDUCATION & ORS.

Respondent(s)

Date : 24-09-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Appellant(s) : Mr. Udit Seth, Adv.
Mr. Anil Seth, Adv.
Mr. Ravi Shankar- 2858, AOR

For Respondent(s) : Mr. Sanjay Kumar Tyagi, AOR

Mr. Aslam Ahmed Jamal, AOR
Mr. Athar Alam, Adv.
Mrs. Sumbul Athar, Adv.
Ms. Shabiesta Nabi, Adv.
Mr. Rohit Jain, Adv.
Ms. Rithika M Minu, Adv.
Mr. Mohd Riyaz, Adv.
Mr. Zeeshan Haider, Adv.
Mr. Tasleem Arif, Adv.
Mr. Abhishek Dwivedi, Adv.
Mr. Arun Kumar Arunachal, Adv.
Mr. Satyapal Singh, Adv.
Mr. Kafeel Ahmad, Adv.

Mr. Dinesh Kumar Garg, AOR (Not Present)

UPON hearing the counsel the Court made the following
O R D E R

1. The Civil Appeal is dismissed in terms of the Signed Order.
2. Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(NIDHI WASON)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)