

ITEM NO.50

COURT NO.4

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 25362/2015  
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 16/07/2015  
IN WPC NO. 576/2013 PASSED BY THE HIGH COURT OF BOMBAY AT GOA)

REAL MAZON INDIA LTD.

PETITIONER(S)

VERSUS

STATE OF GOA AND ORS.  
(WITH INTERIM RELIEF AND OFFICE REPORT)

RESPONDENT(S)

WITH  
SLP(C) NO. 13485/2011  
(WITH APPLN.(S) FOR INTERVENTION AND INTERIM RELIEF AND OFFICE  
REPORT)

Date : 13/02/2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

SLP(C) 25362/15

Mr. Sunil Fernandes, Adv.  
Ms. Astha Sharma, Adv.  
Mr. Arnav Vidyarthi, Adv.

SLP(C) 13485/11

Mr. Arunabh Chowdhary, Adv.  
Mr. Aman Preet Singh Rahi, Adv.  
Mr. Raghav Chadha, Adv.  
Mr. Anupam Lal Das, Adv.

For Respondent(s)

Mr. Paras Kuhad, Sr. Adv.  
Mr. Mohit Bakshi, Adv.  
Mr. Dheeraj Nair, Adv.

Mr. Siddharth Bhatnagar, Adv.  
Mr. Sidharth Mohan, Adv.  
Mr. Nirnimesh Dube, Adv.

Mr. ANS Nadkarni, ASG  
Mr. Siddharth Bhatnagar, Adv.  
Mr. S.S. Rebelo, Adv.  
Mr. T. Mahipal, Adv.

Mr. Ajit Kumar Sinha, Sr. Adv.  
Mr. Vibhu Shankar Mishra, Adv.  
Mr. Amit Sharma, Adv.  
Mr. Rajesh Mishra, Adv.  
Mr. G.S. Makker, Adv.

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

SLP(C)25362/2015

Leave granted.

The appeal is disposed of in terms of the signed order.

SLP(C) NO.13485/2011

Learned counsel for the petitioner prays for liberty to withdraw the present Special Leave Petition and instead avail of the remedy of arbitration in the light of the arbitration clause in the contract.

Upon hearing the learned counsels for the parties, we permit the petitioner to withdraw the Special Leave Petition and avail of such remedies as may be open in law. The Special Leave Petition is accordingly closed on withdrawal with liberty as aforesaid.

[VINOD LAKHINA]  
COURT MASTER

[ASHA SONI]  
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]



recording a statement made on behalf of the State that the matter would be reconsidered. As no decision was forthcoming, a second writ petition i.e. W.P. No. 576 of 2013 was filed by respondent Nos. 4 & 5. In the said writ petition, the State had filed an affidavit indicating the reasons for not accepting the lowest tender of the writ petitioners (respondent Nos. 4 and 5 herein). The High Court which had granted an interim Order modified the same by order dated 12<sup>th</sup> November, 2013 permitting the State to issue a fresh tender. The respondent Nos. 4 & 5 did not participate in the said process wherein the appellant had qualified as the lowest tenderer. Thereafter, the appellant got itself impleaded as the 4<sup>th</sup> respondent in W.P. (C) No. 576 of 2013 and contested the proceedings. The said writ petition was disposed of by the impugned order by

issuing, *inter alia*, the following directions:

"22. The Respondent No. 1 shall as such take a decision with that regard in accordance with law and consider whether the Petitioners should be given an opportunity for negotiations with the Respondent No. 4 and/or decide whether a fresh tender process would have to be initiated or not with regard to the subject tender in the circumstances of the case."

3. Having heard the learned counsels for the parties and having perused the order of the High Court, we are of the view that in the facts of the present case when the respondent Nos. 4 and 5 (original writ petitioners before the High Court) who had not participated in the tender dated 16<sup>th</sup> May, 2014 issued pursuant to the order of the High Court dated 12<sup>th</sup> November, 2013 and their technical parameters not having been tested on the basis of the prescribed norms, the High Court could not have

directed consideration of their financial bid qua the financial bid made by the appellant - Real Mazon India Ltd. (respondent No.4 before the High Court).

4. The High Court, in our considered view, fell into a clear error in issuing the aforesaid direction. We, therefore, interfere and set aside the aforesaid part of the order of the High Court which is under challenge in the present appeal and leave it open for the State to take appropriate steps as it may be advised in accordance with law.

5. The appeal is disposed of in the above terms.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(ASHOK BHUSHAN)

NEW DELHI  
FEBRUARY 13, 2017