

Court No. - 29

Case :- WRIT - C No. - 22369 of 2025

Petitioner :- M/S Physical Education Foundation of India

Respondent :- State of U.P. and 3 Others

Counsel for Petitioner :- Awadh Behari Singh, Dinesh Kumar Sharma

Counsel for Respondent :- C.S.C., Kaushalendra Nath Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri A.B. Singh, learned counsel for the petitioner; Shri Devesh Vikram, learned Additional Chief Standing Counsel for the State respondent no.1 and Shri Shivam Yadav, learned counsel for the respondent nos.2 to 4.

2. The instant writ petition is preferred inter-alia with following reliefs:-

"I. Issue a writ, order or direction in the nature of certiorari quashing the impugned order of termination of licensee/agreement entered between the petitioner and the Noida Authority dated 27.05.2025 issued on 30.05.2025 passed by the respondent no.2 (Annexure No.9).

II. Issue a writ, order or direction in the nature of mandamus commanding the respondents to allow the petitioner to operate and maintain the Noida Cricket Stadium as per the contract entered on 24.09.2021, which is valid for a period of 15 years.

III. Issue any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

IV. Award costs of the petition to the petitioner."

3. The petitioner claims to be National Secretary of M/s Physical Education Foundation of India (petitioner), which is recognized by Ministry of Youth Affairs and Sports, Government of India. The petitioner was accorded a contract by New Okhla Industrial Development Authority (NOIDA) for operation and maintenance of Cricket Stadium at Noida Stadium, Sector 21, Noida and accordingly, an agreement was entered between the petitioner and NOIDA on 24.09.2021 for a period of 15 years w.e.f. 07.07.2021. The said agreement was based on revenue sharing basis and as per condition of the contract, either Rs.1,00,000/- or 30% of the revenue share, whichever is higher, is to be given to the NOIDA.

4. Learned counsel for the petitioner submits that the Deputy General Manager, New Okhla Industrial Development Authority, Sector-6, Noida, Gautam Buddh Nagar (respondent no.3) had issued a show cause notice to the petitioner on 25.07.2025, alleging delay in maintenance work and less interest towards operating the NOIDA cricket stadium and without considering the reply filed by the petitioner, the agreement was cancelled by the respondent no.3 on 24.10.2024. The aforesaid order dated 24.10.2024 was challenged by the petitioner in Writ C No.38112 of 2024 and the same was disposed of on 11.12.2024, leaving it open to the authority to pass afresh order. In compliance thereof, the petitioner again submitted a detailed reply on 07.03.2025 but without considering the reply of the petitioner, the Special Executive Officer (M.P.), NOIDA has passed the impugned order dated 27.05.2025/30.05.2025, whereby the contract of the petitioner had been terminated.

5. Learned counsel for the petitioner vehemently contended that even the impugned termination order is unsustainable, as from time to time the petitioner had made repeated requests to the NOIDA seeking permission to install the flood lights and sitting chairs as per Clause 5.8 of the agreement. In arbitrary manner, the order of termination has been passed, which is contrary to the agreement. He submits that under Clause 5.8 of the licence/agreement relating to maintenance and repair of the cricket stadium, it is specifically provided that the licensee shall bear the cost of minor day-to-day repair and maintenance of the cricket stadium. In case of major repair and maintenance, the licensee can get the needful done with the prior written consent of the NOIDA and deduct the cost thereof from the amount payable to the NOIDA i.e. either Rs.1,00,000/- or 30% of the revenue share,

whichever is higher, is to be given to the NOIDA. He submits that the onus cannot be shifted on the petitioner. In support of his submission, he has placed reliance on various correspondences, which have been made by the petitioner to the NOIDA. He submits that without considering the same the NOIDA Authority in arbitrary manner has not only cancelled the license but also third party interest has been created. As such, the impugned order is liable to be set aside.

6. *Per contra*, Shri Shivam Yadav, learned counsel for the respondents vehemently opposed the writ petition and submits that the NOIDA had constructed the Cricket Stadium offering international standards with the aim to provide practice grounds for training of players for international and national competitions as well as to host competitive events at various levels. The NOIDA accorded license to the petitioner for the operation and maintenance of cricket stadium for a tenure of 15 years on a license fees basis. He submits that Clause 4.1 (ii) of the agreement provides that the operator shall be responsible for installing/setting up and maintaining seating, lighting, required all necessary equipment etc. Under Clause 4.1.II (vii) the Operator shall be responsible for day-to-day operation and maintenance of the facilities of the Cricket Stadium including upkeep of the infrastructure of the Stadium. Clause 5.2.6 provides that either party may terminate this agreement with immediate effect by serving prior written notice to the other party. He submits that there was loss in giving revenue due to wrongful delay in maintenance works and due to less less interest by the petitioner toward operating the Noida Cricket Stadium. Consequently, the show cause notice was issued to the petitioner on 25.07.2024 as to why the agreement be not taken against the petitioner on account

of the breach of contract. After considering the reply of the petitioner, the NOIDA Authority has rightly cancelled the contract of the petitioner and the writ petition is liable to be dismissed.

7. We have heard rival submissions and perused the record.

8. We find that Clause 5.4 of the Agreement relates to settlement of disputes. Clause 5.8 of the agreement deals with the maintenance and repairs. For ready reference, Clauses 5.4 & 5.8 are reproduced herein below:-

"5.4. Settlement of Disputes

a) Amicable Settlement

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the contract and the success of the assignment. The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this contract or its interpretation.

b) Arbitration

i) Any disputes and or difference relating to this License Agreement or claims arising out of or relating to this License Agreement or breach, termination or the invalidity thereof or on any issue whether arising during the progress of the services or after the completion or abandonment thereof or any matter directly or indirectly connected with this License Agreement will be resolved through joint discussion of the authorized representatives of both the parties (NOIDA and Licensee). If the dispute is not resolved by joint discussion, then the matter will be referred for adjudication to a sole Arbitrator appointed by the CEO, NOIDA on receipt of written notice/demand of appointment of Arbitrator from either party.

ii) The decision of sole Arbitrator/panel of Arbitrators shall be binding on all the parties. The parties agree to comply with the awards resulting from arbitration and waive their rights to any form of appeal insofar as such waiver can validly be made.

iii. Rules governing Arbitration Proceedings: The Arbitration Proceedings shall be governed by Indian Arbitration and Conciliation Act, 1996, as amended from time to time including provisions in force at the time the references made. During the pendency of arbitration proceedings, the Licensee shall continue to perform and make due payments to NOIDA as per the License Agreement.

iv. With respect to any dispute arising out of or related to this contract, the parties consent to the exclusive jurisdiction of, and venue in, the District Court, Gautam Budh Nagar or the High Court of Judicature at Allahabad, both in Uttar Pradesh, India.

v. The cost of arbitration shall be borne by the respective parties. The cost shall, inter alia, include the fees of the Arbitrator (s) as per rates fixed by the

employer from time to time.

5.8 Maintenance and Repairs

i. Licensee shall bear the cost of minor day-to-day repairs and maintenance including white washing. If major repairs or maintenance required to be carried out, the Licensee shall intimate the same to Noida. The Authority will take a decision as to whether the same would be done by it or the Licensee can get the needful done with prior written consent of NOIDA and deduct the cost thereof from the amount payable to NOIDA.

ii. The premise, which has been handed over to the Licensee, shall be kept in good condition and maintained properly at their own cost. If the property is not handed over in good condition as required, NOIDA reserves the right to seek exemplary damages and indemnification."

9. In the earlier round of litigation, the petitioner had challenged the termination notice dated 24.10.2024 issued by the respondent no.3. In the said writ petition, it was also prayed for a direction to the respondent no.3 to decide the matter afresh after taking into consideration the reply dated 27.08.2024 received in the office of the Authority on 28.08.2024. Finally, the Division Bench vide order dated 11.12.2024 had disposed of the writ petition, with following observations:-

"1. By instant petition the petitioner assails a termination notice dated 24.10.2024 issued by respondent no. 3 (Deputy General Manager, Works Circle-II, Sector-6, Noida, Gautam Buddh Nagar) and has prayed for mandamus to respondent no. 3 (wrongly mentioned as respondent no.2 in the prayer clause) to decide the matter afresh taking into consideration the reply dated 27.08.2024 received in the office of the Authority on 28.08.2024.

2. By impugned termination notice respondent no. 3 has determined the agreement dated 24.09.2021 between the petitioner and the respondent Authority in respect of operation and maintenance of cricket stadium at Noida, Sector 21A Noida, District- Gautam Buddh Nagar and the petitioner has been called upon to clear arrears of electricity dues failing which the same would be adjusted against the performance guarantee and earnest money. The petitioner has also been directed to handover vacant possession of the shooting range which was subsequently corrected by order dated 24.10.2024, as pointed out by Sri Kaushlendra Nath Singh, counsel for the respondent Authority so that the direction is for handing over possession of the cricket stadium and not the shooting range.

3. The order records that the petitioner was issued show cause notice on 25.07. 2024 granting it 30 days' time to respond but since the petitioner failed to submit any response within 30 days, therefore, the agreement has been cancelled assuming the allegations in the show cause notice to be correct.

4. Counsel for the petitioner submits that the petitioner after receipt of show cause notice submitted a detailed reply on 28.08.2024, which has not been considered, therefore, the impugned order is illegal.

5. Sri Kaushlendra Nath Singh, learned counsel for the respondent Authority

submits that since reply was not submitted within 30 days and therefore it was not considered.

6. We do not find any force in the submission. Even if the show cause notice stipulated, filing of reply within 30 days but since no order was passed in pursuance thereof, until 24.10.2024 therefore in case any reply was submitted by the petitioner before the passing of the order, it ought to have been considered. The impugned action of the respondent has resulted in violation of principles of natural justice, therefore, it is quashed, leaving it open to the Authority to pass order afresh taking into consideration the reply dated 27.08.2024 submitted on 28.08.2024.

7. The writ petition stands disposed of."

10. We find that in response thereof, the petitioner's objection has been considered in detail and while passing the impugned order dated 27.05.2025, the respondents had found that the petitioner has not taken care of the hygienic and other basic amenities since 2021 and even the toilets and washrooms were also in shabby condition. Initially, we declined to entertain the writ petition on the ground of efficacious alternative remedy to press the relief before the Arbitrator but on the insistence of the petitioner, we have proceeded to pass an order on merits.

11. In the facts and circumstances, we do not find any merit in the instant writ petition, which warrants any interference under Article 226 of Constitution of India.

12. Accordingly, the writ petition is **dismissed**.

13. Once we have passed the detailed order, learned counsel for the petitioner states that the instant writ petition may be dismissed as not pressed, and leave may be accorded to the petitioner to agitate before the Arbitrator in terms of Clause 5.4 of the agreement. We made it clear that the observations made as above would not come in the way of the petitioner and the matter is to be decided by the Arbitrator on merits.

Order Date :- 11.8.2025

RKP