



Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR,

WRIT PETITION (C) NO. 1795 /2014

C.R. 100/1

PETITIONER

:

M/s Vineet Singh Construction
Company Pvt. Ltd., Bilaspur
Through its Managing
Director, (Proprietor) Vineet
Singh, S/o Late Sudhish Singh,
aged about 39 years, resident
of Maharana Pratap Colony,
Yadunandan Nagar, Tifra
District - Bilaspur (C.G.)

Civil & Revenue District
Bilaspur.

Vs

RESPONDENTS

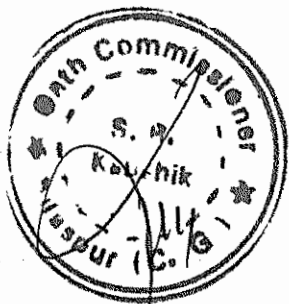
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1. State of Chhattisgarh,
through the Secretary, Water
Resources Department,
Mahanadi Bhawan, Mantralaya,
Naya Raipur.
2. The Chief Engineer, Hasdeo
Basin, Water Resources
Department, Bilaspur (C.G.).
3. The Superintending Engineer,
Water Resources Department.
Near Nehru Chowk, Bilaspur
(C.G.).

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

1. PARTICULARS OF THE PETITIONER (S):-

As per the cause title.



At



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HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Writ Petition (C) No. 1795 of 2014

PETITIONER

M/s Vineet Singh Construction
Company Pvt. Ltd. Bilaspur.

VERSUS

RESPONDENTS

State of CG and others

Shri Apporv Tripathi counsel for the petitioner.
Shri Arun Sao Dy. AG and Shri Gary Mukhopadhyaya
PL for the respondents/State.

**WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA**

ORDER
(30.4.2015)

Challenge in this petition is to the order dated 19.8.2014 (Annexure P-1) passed by Engineer-in-Chief, Water Resources Department, Raipur suspending the A-5 Class Registration of the petitioner.

2. Facts of the case in brief are that the petitioner obtained certain construction works including that of construction of Arpa River Flood Protection Wall, Koni and Amamunda Diversion Scheme Construction. As the petitioner failed to carry out the said works, several reminders were issued but in spite of the extension granted the same could not be completed. Ultimately, on 9.7.2014 a show cause notice was issued to the petitioner for



not carrying out the above two works in time mentioning therein as to why its registration be not suspended for three years. Petitioner was also asked to reply to the show cause notice within a period of 15 days. On 23.7.2014 vide Annexure P-8 the petitioner submitted the reply to the show cause notice assigning various reasons for not completing the two works in time. Main reason assigned by the petitioner was that on account of some mistake in drawing and also that the clearance was not given by the forest department, the works could not be carried out in time.

3. After receiving the reply of the petitioner, in the meeting of the Registration Committee on 25.7.2014 it was held that the petitioner was at fault for not completing the allotted works in time and a recommendation was made for suspending the registration of the petitioner for two years. On receiving the recommendation of the Registration Committee vide order dated 19.8.2014 (Annexure P-1) registration of the petitioner has been suspended for two years and it is this order which is under challenge herein.

3. Counsel for the petitioner submits as under:

- (i) that the order impugned is totally a non speaking order and the same is liable to be set aside on this ground alone;
- (ii) that neither the registration committee nor the engineer-in-chief has considered the reply to the show cause notice submitted by the petitioner on 23.7.2014;

(iii) that the order impugned has been passed on some executive instruction dated 5.8.2013 issued by the State Government which is not applicable to the case of the petitioner as the contract was executed much prior to 5.8.2013;

(iv) that the impugned order has been passed on 19.8.2014 whereas the decision was taken by the engineer-in-chief to suspend the license of the petitioner on 9.7.2014 itself, which is evident from the document of Annexure P-22 – the letter addressed by the engineer-in-chief to the nodal officer wherein it is categorically mentioned that the decision has been taken to suspend the registration of seven contractors;

(v) that recommendation of the registration committee dated 25.7.2014 and the order impugned dated 19.8.2014 are nothing but an eyewash and from the conduct of the respondents it is clear that they were biased against the petitioner and for that only the decision to suspend the registration of the petitioner was already taken;

(vi) that the two allegations were levelled against the petitioner and out of them one was in relation to the work of Amamunda Diversion Scheme Construction for which the petitioner has filed WP No. 90/2015 where this Court has remitted the matter and the same is still pending before the Superintending Engineer whereas the matter in relation to

Arpa River Flood Protection Wall, Koni is pending before the Arbitration Tribunal;

(vii) that suspension of registration of the petitioner is in fact in the nature of black listing for a temporary period which is stigmatic and would come in the way of the petitioner in respect of the works of other departments also.

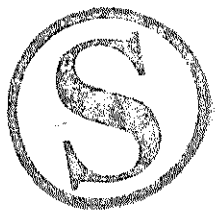
4. The State counsel supports the order impugned and submits that when the petitioner failed to complete the work within the stipulated time, several reminders were issued but even then the works remained incomplete. As even in spite of the reminders and extension of time the works could not be completed by the petitioner, the authorities were left with no other option but to suspend the registration of the petitioner after recommendation of the registration committee. State counsel further submits that after due application of mind the authorities have considered the case of the petitioner and when it was found that the petitioner was at fault, the registration committee recommended for suspension of its registration for a period of two years which ultimately has been affirmed by the engineer-in-chief also. According to the State counsel, the executive instruction dated 5.8.2015 is also applicable to the case of the petitioner because these are the guidelines directing action against the erring contractors like the petitioner.

5. Heard counsel for the parties and perused the documents

on record.

6. In the reply to the show cause notice given by the petitioner, several reasons have been assigned for not concluding the contract within the time-frame. However, the registration committee while considering the case of the petitioner has not bothered to consider any of the points raised by the petitioner. Even the reply to the show cause notice submitted by it does not appear to have been adverted to by the registration committee while giving the said recommendation. Likewise, the engineer-in-chief also did not assign any reason while passing the order impugned. True it is that the authorities were not required to pass a detailed order but at least it is expected to give certain reasons in support of the conclusion so drawn.

7. It is a settled legal position that suspension of registration of the petitioner for a period of two years involves civil consequences and may cause great prejudice to the petitioner by affecting not only the works of Water Resources Department but that of other departments also. This Court is refraining itself from entering into the point as to how the petitioner could not carry out the works assigned to it. Suffice it to say that the authorities have failed to consider the points raised by the petitioner while passing the impugned order. Recording of reasons is a principle of natural justice; it ensures transparency and fairness in decision making and most importantly the person adversely affected can come to



know as to why his case has been demolished.

8. In the aforesaid view of the matter, this Court is of the opinion that the order impugned is not sustainable in the eye of law and liable to be set aside. Ordered so. However, liberty is granted to the State authorities to issue fresh show cause notice to the petitioner if so required or remain stick to the already issued one. Petitioner would also be at liberty to file additional reply to the show cause notice, if need be, within the time granted by the authorities concerned. On all this being done, first the registration committee would consider the case of the petitioner and pass the order in accordance with law. While passing any order, the engineer-in-chief is expected to give certain reasons in its support.

9. Considering the fact that the petitioner has already suffered for about eight months, it is expected from the authorities concerned to act promptly and complete all the formalities within a period of two months. Needless to say that while considering the case of the petitioner, the authorities would not be influenced by their previous action.

10. Petition thus allowed.

Sd/-
Pritinker Diwaker
Judge