

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No.156 of 2015**

M/s National Construction Co., A partnership firm registered under the Indian Partnerships Act, 1932, having its registered office at Harsh Plaza, First Floor, Opp Mandavi – Octroi, College Road, Bhuj-Kutchh – 370001 (Gujarat)

----Petitioner**versus**

1. South Eastern Coalfields Ltd., A Company registered under the Companies Act, 1956 having its registered office at SECL Bhawan, Seepat Road, Bilaspur, District Bilaspur (Chhattisgarh), through its Chairman-cum-Managing Director
2. General Manager (Contract Management Cell), SECL Bilaspur SECL Bhawan, Seepat Road, Bilaspur, District Bilaspur, Chhattisgarh
3. Area General Manager, Office of the General Manager, Kusmunda Area, Korba, District Korba (Chhattisgarh)
4. General Manager (Operations), Office of the General Manager Kusmunda Area, Korba, District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Prafull N. Bharat and Shri Bhaskar Payashi, Advocates
For Respondents	:	Shri Vaibhav Shukla, Advocate

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

Order on Board**Per NAVIN SINHA, Chief Justice****16/12/2015**

1. The present application has been filed for review of order dated 3.11.2015 dismissing Writ Petition (C) No.1944 of 2015 considering that disputed facts were involved arising out of contractual relationship seeking payment of dues under a contract.

2. Learned Counsel for the Petitioner submits that review is sought on two grounds, (a) the writ petition filed on 16.10.2015 seeking payment of dues under a contract ought to have been listed before the Single Judge in accordance with roster more particularly the clarificatory Circular dated 24.7.2015 and (b) it may be clarified that the order dated 3.11.2015 does not debar consideration of admitted dues.

3. Learned Counsel for the Petitioner next submits that another similar matter was listed before a Learned Single Judge according to roster when he was made aware of the Circular dated 24.7.2015. The fault lay with the office in listing it before the Division Bench when it was cognizable by the Learned Single Judge alone. The Petitioner cannot be allowed to suffer because of the fault of the office as it has been deprived of the appellate remedy under the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. He next submits that there were some admitted dues which have not been considered in the order review of which has been sought.

4. Learned Counsel for the Respondents submits that the Circular dated 24.7.2015 was not urged on behalf of the Petitioner before the Division Bench. There are no admitted dues and on the contrary there is a claim for recovery on account of penalty against the Petitioner.

5. We have considered the submissions.

6. Insofar as second contention of the Petitioner is concerned, it cannot constitute a valid ground to invoke the review jurisdiction. If the Petitioner is of the opinion that there are any admitted dues, it is for it to pursue remedies as it may deem fit proper. We make no observation with regard to the same in view of the conflicting stands taken by Learned Counsel for the parties on the issue.

7. Rule 23 of the High Court of Chhattisgarh Rules, 2007 provides as follows:

“23. The following matters shall be heard by a Division Bench.

(1) Writ Petitions:

...

(iv) Relating to Contract/Tender concerning to the Government/Public Undertaking/ Local Bodies/ Statutory Bodies.”

Similarly, Rule 23(1)(v) reads as follows:

“(v) Relating to admission in medical/technical colleges.”

8. By a judicial order dated 3.7.2015 in Writ Petition (C) No.1137 of 2015, it was observed as follows:

“A bare reading of the Rule reveals that it is only matters relating to publication of tenders, denial of tender documents, wrong rejection of tenders, refusal to award contract after acceptance of tender, cancellation of contract illegally and arbitrarily only in matters relating to commercial transactions which are to be listed before the Division Bench.”

9. A circular to that effect was then issued bearing No.5629/Reg(J.)/2015 dated 24.7.2015, which reads as follows:

“HIGH COURT OF CHHATTISGARH, BILASPUR

CIRCULAR

No.5629/Reg(J.)/2015

Bilaspur, 24th July, 2015

As ordered by the Hon'ble Division Bench vide order dated 3-7-2015 passed in W.P.(C) No.1137/2015, Rule 23(1)(iv) of the High Court of Chhattisgarh Rules, 2007 read as follows :-

“(iv) Relating to Contracts/Tender concerning to the Government/Public Undertaking/Local Bodies/ Statutory Bodies”.

The Hon'ble Division Bench about the said Rule observed thus:

A bare reading of the Rule reveals that it is only matters relating to publication of tenders, denial of tender documents, wrong rejection of tenders, refusal to award contract after acceptance of tender, cancellation of contract illegally and arbitrarily only in matters relating to commercial transactions which are to be listed before the Division Bench.

Sd/-
(Ramashankar Prasad)
Registrar (Judicial)”

The amendment was published in the new edition of the High Court of Chhattisgarh Rules published in September, 2015. The Writ Petition was filed thereafter on 16.10.2015 and disposed on 3.11.2015. If the office committed a mistake, the Petitioner also ought to share a part of the blame in not placing the circular before the Division Bench.

10. Be that as it may, once we have passed a judicial order on merits, we do not consider it proper to recall the order considering that it is reasoned

and discussed and remedy before a higher forum is still available to the Petitioner.

11. In another matter, we have also had to clarify that matters coming under Rule 23(v) of the High Court of Chhattisgarh Rules, 2007 are confined to students seeking admission in medical or technical colleges and cancellation of admission. It will not include cases where the institution may have sought enhancement of seats.

12. The submission on behalf of the Petitioner that a similar Writ Petition was listed before the Learned Single Judge according to roster and this matter got listed before the Division Bench disturbs us immensely. It not only indicates that something is amiss in the office with regard to the manner in which the Stamp Reporter is working and displays ignorance by the Stamp Reporter of the Circular dated 24.7.2015.

13. The Registrar General is directed to hold an inquiry on the administrative side and act appropriately. It is also directed that issues with regard to Rule 23(iv) and (v) of the High Court of Chhattisgarh Rules, 2007 and a copy of the circular be handed over to each of the Stamp Reporters so that there is no such error in future.

14. The Stamp Reporter is required to perform a very important function to ensure listing of cases not only according to roster but also regarding issues with regard to maintainability which forms but an integral part of the system of dispensation of justice. The manner in which the Stamp Reporter has acted will only create confusion and chaos for the litigants and lawyers both who will not be clear in their minds as to the manner in which the cases are to be filed and listed.

15. The review application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE