

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 513 of 2015**

Jhajharia Arcon (J.V.) through – Mrityunjay Kumar s/o Shri R.K. Sharma aged about 35 years, H.R. Head, Jhajharia Mansion Jagmal Chowk, Bilaspur, Thana-Torwa, district Bilaspur (C.G.)

---- Petitioner

Versus

Steel Authority of India Limited, Bhilai Steel Plant through DGM (Projects Contract Cell), NTK, Bhilai, district Durg (C.G.)

---- Respondent

For Petitioner	:	Shri Vinod Deshmukh, Advocate.
For Respondent	:	Shri Sourabh Kumar Pandey, Advocate.

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

Order On Board**Per NAVIN SINHA, ACTING C.J.****27/03/2015**

1. We have heard counsel for the Petitioner.
2. Shri Sourabh Kumar Pandey, a Panel Lawyer for the Respondent who was present in the court room was requested by us to render necessary assistance for disposal of the writ application.
3. The Petitioner assails order dated 13.01.2015 passed by the Respondent requiring it to submit evidence for having deposited cess under the Building and Other Construction Workers (Regulation of Employment and

Conditions of Service) Act, 1996 (hereinafter referred to as 'the Act') with regard to the works awarded to the Petitioner for Construction of Railway Siding and MGR System including earth work, construction of bridges, supply of ballast and P-way linking in connection with modernization of Peripheral Yard of Bhilai Steel Plant at Bhilai. In the event of failure to do so or the cess deposited having been less than the requisite amount retrospective recovery would be made from the bills submitted from February, 2015 onwards.

4. Learned Counsel for the Petitioner submits that the Act does not apply to the present works and the Petitioner is not liable to pay any cess. The Petitioner is governed by the Contract Labour (Regulation and Abolition) Act, 1970.

5. We are of the considered opinion that the writ petition at this stage is premature. The communication dated 13.01.2015 requires the Petitioner to submit evidence for depositing cess, if any, in respect of the Act. The significance of the words 'if any', cannot be lost sight of. It is sufficient indication of a *prima facie* opinion by the Respondent only with regard to the applicability of the Act. We were inclined to direct the Respondent to consider the representation dated 15.03.2015 in the manner as furnished by the Petitioner. Apparently it is wanting in material particulars. At this stage, learned counsel for the Petitioner submitted that the Petitioner may be permitted to supplement the representation by supplementing it with more details.

6. We grant liberty to the Petitioner to supplement its representation which must be submitted to the Respondent within a maximum period of six

weeks from today failing which the Respondent shall be under no obligation to consider the same. The Respondent shall then pass a reasoned and speaking order to their satisfaction with regard to the applicability or inapplicability of the Act in accordance with law.

7. It is clarified that we have not expressed any opinion or made any observation with regard to the applicability or inapplicability of the Act and the issue remains totally in the discretion of the Respondent, at this stage, to be exercised but in accordance with law.

8. The writ petition is disposed.

(Navin Sinha)
ACTING CHIEF JUSTICE

(P. Sam Koshy)
JUDGE