

**BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR,**

WRIT PETITION (C) NO. 90 /2015

PETITIONER : M/s Vineet Singh Construction Company Pvt. Ltd.

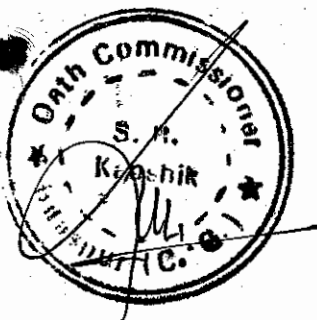
Through :- Managing Director,
(Proprietor) Vineet Singh, S/o Late
Sudhish Singh, aged about 39 years,
Maharana Pratap Colony,
Yadunandan Nagar, P.S. Civil Line,
Tifra, District - Bilaspur (C.G.)

WPC 90/2015
1082/15
Presented by Shri Suresh Toppo
dated 15.1.15

Vs

RESPONDENTS :

1. State of Chhattisgarh, through the Secretary, Water Resources Department, Mahanadi Bhawan, New Mantralay, Raipur (C.G.)
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**



23

**HIGH COURT OF CHHATTISGARH AT BILASPUR
DIVISION BENCH**

**CORAM: HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE &
HON'BLE SHRI PRITINKER DIWAKER, J.**

WRIT PETITION (C) No. 90 OF 2015

PETITIONER : M/s. Vineet Singh Construction Company
Pvt. Ltd.

VERSUS

RESPONDENTS : State of Chhattisgarh & Others.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance: Shri Apoorva Tripathi, Advocate for the Petitioner.
Shri A.S.Gaharwar, Additional Advocate General for the State.

ORDER
(20th of January, 2015)

Per Navin Sinha, Acg. C.J.

1. We have heard counsel for the Petitioner and the Respondents.
2. The Petitioner was awarded a contract. It was terminated on 30.05.2013 and orders passed for forfeiture. The Petitioner invoked clause 4.3.29 of the agreement petitioning the Superintending Engineer that the delay was not on his account but for the reasons attributable to the Respondents. The Superintending Engineer passed orders on 25.11.2013 rejecting the contention of the Petitioner.
3. Learned Counsel for the Petitioner submits that it is not permissible for the Respondents to make deduction from the deposits made by the Petitioner with regard to other contracts not concerned with the contract which has been terminated. He next submits that the impugned order is non-speaking in nature and completely hinders review even before the Arbitration Tribunal provided in clause 4.3.29 rendering that opportunity illusory.

4. Learned Counsel for the Respondents submits that the grievance of the Petitioner have been considered which is apparent from the preceding paragraph of the order. It cannot be said that conclusions have been arrived at without consideration of his grievances.

5. Clause 4.3.29 of the agreement provides that the Superintending Engineer will give decision in writing. The word "decision" itself postulates that his order in writing is required to reflect claims and counter claims with brief indication of the facts and why he was inclined to accept the contention of one side and reject that of the other. The clause itself provides that the person aggrieved by the order of the Superintending Engineer may approach the Arbitration Tribunal constituted under the Chhattisgarh Madhyastham Adhikarn Adhiniyam, 1983.

6. The impugned order simply states that both the sides have been heard. The claim of the Petitioner and the reply of the Executive Engineer considered to hold that the Petitioner had been given adequate time but could not expedite the work. It was necessary to complete the works within time. The termination order therefore required no interference.

7. From the face of the order, no reasons have been assigned as to what were the contentions of the Petitioner and the manner in which they were considered by the Superintending Engineer with a brief reasoning why the grounds taken by the Petitioner were not acceptable and that of the Executive Engineer was correct. The non-speaking nature of the order makes it arbitrary without furthermore. Reasons are the heart and soul of an order. It hinders the Petitioner from approaching



25

the Arbitration Tribunal as he is not in a position to understand what reasoning passed in the mind of the Superintending Engineer and unless he is made aware of the same, no effective challenge can be made before the Arbitration Tribunal.

8. The impugned order dated 16.09.2014 is set aside and the matter is remanded to the Superintending Engineer to pass a reasoned and speaking order in accordance with law in light of the present discussion within a maximum period of four weeks from the date of receipt and/or presentation of a copy of this order.

9. The petition stands disposed.

**Sd/-
Acting Chief Justice**

**Sd/-
Pritinker Diwakar
Judge**

Amit