

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 592 of 2016**

M/s Harsh Construction Company (Aregistered Partnership Firm)
 Having Its Registered Office Near Sanjay Park, Ambikapur, District
 Surguja Chhattisgarh Through Its Managing Partner Namely Santosh
 Kumar Singh, S/o Late Mahatam Singh, Aged About 45 Years, R/o In
 Fron Tof Sanjay Park, Ambikapur, Police Station / Post Office / Tahsil
 Ambikapur, Civil & Revenue District Surguja Chhattisgarh Pin 497001

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Principal Secretary, Public Works Department, Govt. Of Chhattisgarh Mantralaya, Mahanadi Gate Naya Raipur Capital Complex, Head Post Office Raipur, Tahsil Raipur, Civil & Revenue District Raipur Chhattisgarh Pin 492001
2. Engineer In Chief, Public Works Department, Govt. Of Chhattisgarh, Sirpur Bhawan, Head Post Offie Riapur, Tahsil Raipur, Civil & Revenue District Raipur Chhattisgarh Pin 492001
3. Chief Engineer, Public Works Department, Ambikapur Zone Tahsil Ambikapur, Civil & Revenue District Surguja At Ambikapur Chhattisgarh Pin 497001
4. Superintending Engineer, Public Wroks Department, Ambikapur, Tahsil Ambikapur, Civil & Revenue District Surguja At Ambikapur, Chhattigarh Pin 497001
5. Executive Engineer, Public Works Department B & R Division Jashpur, Tahsil Jashpur, Civil & Revenue District Jashpur Chhattigarh Pin 496331

-----Respondents

For Petitioner:	Shri Raj Kamal Singh, Advocate.
For Respondents/State:	Shri UNS Deo, Government Advocate.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy
Order on Board

Per Navin Sinha, Chief Justice**4.3.2016**

1. Heard Learned Counsel for the Petitioner and the State.

2. The Petitioner was awarded contract for widening of new B.T of Jashpur-Sanna Road in kilometers 32-53 equal to 22 kms. It was terminated on 15.5.2015. In W.P(C) No.1076/2015, on 23.9.2015, this Court observed that judicial review in contract matters cannot be invoked when disputed facts are involved. The Petitioner was left to pursue his remedies under Clause-28 of the agreement between the parties.

3. Learned Counsel for the Petitioner submits that it had invoked Clause-28 of the agreement and an enquiry was also initiated. Unless the enquiry is completed and finding of facts are arrived at with regard to the extent of works completed by the Petitioner, the authorities are not justified in having published a fresh tender notice for the remaining balance works. This can prejudice the Petitioner both in the enquiry and in the proceedings under Clause-28 of the agreement. Therefore, the fresh tender notice dated 2.2.2016 is required to be stayed till the conclusion of the enquiry at least. No further argument has been made before us.

4. Once the Court declined to entertain the Writ Petition earlier with regard to termination, observing that disputed questions of facts were involved, there is no occasion to entertain this second Writ Application on what is primarily the same issue of termination. Even if the Respondents have initiated an enquiry, dependent on the outcome of the same the Petitioner may or may not be entitled to relief. What will be the nature of relief, if any, will be for the Respondents to decide based on the nature of conclusions arrived at in the enquiry or the proceedings under Clause-28. The works were of the public nature for the benefit of the general public. We find no infirmity in the Respondents' having simultaneously published a fresh tender notice for getting the works completed as public works cannot afford to wait leading to cost escalation etc., the grievance of the Petitioner being

personal and public interest must prevail over private interest.

5. The Writ Petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE

Priya