

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.2552 of 2016**

Sunil Kumar Mishra, S/o Nageshwar Mishra, aged about 41 years, R/o Occupation D Class Contractor, Takia Road, Ambikapur, District Surguja, Chhattisgarh

---- **Petitioner**

versus

Municipal Corporation Ambikapur through Commissioner, Municipal Corporation Ambikapur, District Surguja, Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Shakti Raj Sinha, Advocate
For Respondent	:	Shri Apoorv Tripathi, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

29.11.2016

- The main grievance of the Petitioner in this writ petition is that he was awarded the work of construction of a culvert. However, later, the work was reduced and the Respondent/Municipal Corporation stated that 50% of the work had already been completed and, therefore, the Petitioner should only complete the remaining 50% of the work. Therefore, on 18.10.2016, we had passed the following order:

“xxxxx

xxxxx

xxxxx

List the matter on 16.11.2016 when the Respondent – Municipal Corporation shall produce the entire records especially with regard to allegation made by the Petitioner that though the tender was floated for construction of the entire work of culvert, now according to the Municipal Corporation, 50% of the work has already been completed. The Municipal Corporation in its reply shall clarify that under which work order, 50% of the work has been completed.”

- The record was not produced before us on the next date and then we directed the Commissioner, Municipal Corporation to appear in person along with the entire record on 21.11.2016. On 21.11.2016, the

Commissioner and the Assistant Engineer of the Municipal Corporation appeared in person before this Court. On that date, Shri Ramesh Singh, Assistant Engineer of the Municipal Corporation stated that when he had prepared the proposal, there was no culvert existing. Thereafter, the villagers, at their local level, constructed some portion of the culvert. Now, Shri Ramesh Singh, Assistant Engineer states that he was confused and made a wrong statement in the Court. He states that proposal for 271 construction works had come together and, therefore, he had not inspected the work. However, later he inspected the site and on inspection, he found that actually 50% of the work of construction of the culvert had already been done. Admittedly, the Petitioner has not done the 50% of the work, but somebody else has done the work. It appears that there is nothing on record to show as to who has done the work. The Petitioner may not get any relief because he cannot be paid for the 50% of the work which he has already done. According to the Petitioner, the work which is existing is of inferior quality. However, the Petitioner also admits that there is some work existing on the spot.

3. In view of the above, we dispose of the writ petition with the following directions:

(1) The Chief Engineer, Urban Administration Department, Raipur shall personally visit the spot, verify what is the quality of construction which has been carried out and whether that construction can sustain the work of remaining portion of the culvert or whether new culvert has to be constructed. Therefore, the Petitioner be awarded the entire work or portion of the work. In case, the Petitioner refuses to complete portion of the work then a fresh tender shall be floated for portion of the work.

(2) The Chief Engineer, Urban Administration

Department, Raipur shall also fix responsibility of the erring officials/officers as to how the proposal was mooted for construction of a full culvert when even as per the Department, 50% work was already completed. Action shall be taken against all the erring officials/officers.

4. The writ petition is disposed of accordingly.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE