

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1785 of 2016**

Creative Circle Through Its Partner Nikhil Bhaskar Sahasrabhojane, S/o Shri B. D. Sahasrabhojane, Address- 31 Bhaskar Prabha, East Shankar Nagar, Nagpur, Maharashtra 440010

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Principal Secretary, Urban Development Department, Mahanadi Bhawan, Mantralaya, New Raipur 492001

2. Raipur Development Authority, Through Its Chief Executive Officer, Bhakta Mata Karma Commercial Complex, New Rajendra Nagar, Raipur Chhattisgarh 492001

3. Chief Engineer, Raipur Development Authority, Bhakta Mata Karma Commercial Complex, New Rajendra Nagar, Raipur, Chhattisgarh 492001

---- **Respondents**

For Petitioner : Shri Ashutosh Shukla, Advocate.

For Respondents/State : Shri Prafull N. Bharat, Additional Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

23/08/2016

1. By means of this writ petition, the Petitioner has challenged the order dated 23.07.2013 as well as the advertisement dated 14.12.2015.

2. The facts of the case are that the Petitioner was awarded work for preparation of redeveloped plan for EAC Colony vide letter dated 03.07.2012. It appears that by letter dated 23.07.2013, the contract between the Petitioner and the State was cancelled by the Respondents and the Petitioner was also told that he could claim payment for work done by him after furnishing the bills. The Petitioner sent a response to this letter cancelling his contract vide Annexure-P/10, in which the Petitioner

expressed an opinion that the work could not have been cancelled in such a manner and they are also obtaining advise from the legal consultant and would revert back. Another response was also sent by the Petitioner on 30.07.2013 to the Chief Executive Officer of the Raipur Development Authority. The Petitioner thereafter did nothing in the matter. It is urged that the Petitioner made oral representation with the corporate bodies and authorities which were involved. There is no question of making oral representation. Oral representation can be made between the persons but not with legal entities. The Raipur Development Authority is not represented by one person and it is not even mentioned that such oral representation was made by which person.

3. Be that as it may, there is no concept of oral representation in contractual matters. The Petitioner kept silent for more than two years and thereafter in December, 2015, the Raipur Development Authority issued an advertisement inviting tenders for the same work.

4. For the first time, the Petitioner raised the objection on 1.1.2016 stating that the Raipur Development Authority should not have issued any advertisement because the work has already been awarded to it. We are not going into the question that contract was cancelled properly or not but the question is as to whether this case is hit by the principles of delay and laches.

5. In the year 2012, he was granted the contract to do some work and this contract was cancelled on 23.07.2013. The Petitioner kept silent in the matter for about 2 years and 4 months. As of now, even the limitation for filing the civil suit for cancellation of the said letter has expired. Therefore, it is a clear case which is hit by the principles of delay and laches.

6. Reliance placed by the Learned Counsel for the Petitioner on the judgment of the Apex Court in *Ashok Kumar V. State of Bihar & Others*, (2008) 8 SCC 445, is totally misplaced. That case was decided on its peculiar facts. It is not even clear what was the nature of dispute between the parties in that case. We are clearly of the view that in contractual matters of this nature, a party cannot remain silent for almost three years and then claim that the earlier order is illegal and be set aside.

7. We therefore find that this petition is miserably barred by delay and laches. It is dismissed accordingly.

8. It is clarified that in case the Petitioner's bills are pending with regard to the work which was done by it, the Respondents shall take a decision in the matter within a period of two months from today.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay K. Agrawal)
JUDGE