

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1094 of 2016**

M/s Sanjay Agrawal, A registered Partnership Firm having its Registered Office at 35-36, First Floor Millennium Plaza G.E. Road, Raipur, Chhattisgarh, through its Partner namely Siddharth Agrawal, S/o Sanjay Agrawal, aged about 24 years, R/o 9 South Avenue, Choubey Colony, Raipur, Police Station and Post Raipur, Civil and Revenue District Raipur, Chhattisgarh

---- Petitioner

versus

1. M/s National Buildings Construction Corporation Ltd. N.I.T. Works NIT Campus, G.E. Road, Raipur, Chhattisgarh, 492001 through its Chairman-cum-Managing Director, National Building Construction Corporation Limited, NBCC Bhawan, Lodhi Road, New Delhi
2. General Manager (Engg.), National Building Construction Corporation Limited, A Govt. of India Enterprise, A Navratna CPSU, Current Office at New Swagat Vihar, Dunda Raipur, District Raipur, Chhattisgarh
3. Branch Manager, ICICI Bank, Gore Parisar, Behind Raj Bhawan, Civil Lines, Raipur, Chhattisgarh
4. National Institute of Technology, through its Director, National Institute of Technology, NIT Campus, G.E. Road, Raipur, Chhattisgarh, 492001

---- Respondents

For Petitioner : Shri Manoj Paranjpe, Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Navin Sinha, Chief Justice

2/5/2016

1. The Petitioner has filed this writ petition aggrieved by a communication dated 21.3.2016 written by the Respondent National Buildings Construction Corporation Limited to the Branch Manager, ICICI Bank, Gore Parisar, Civil Lines, Raipur, Chhattisgarh invoking the bank guarantee furnished by it pursuant to a contract awarded for construction of a boys hostel, after termination which is alleged to be illegal and unjustified in the facts of the case.

2. Article 5.0 governing law and jurisdiction in the contract reads as follows:

“Article 5.0 – Governing Law and Jurisdiction

5.1 The Laws applicable to this contract shall be the laws in force in India and jurisdiction of Delhi Court(s) only.

XXXXX

XXXXXX

XXXXX”

3. There can be no doubt that in the nature of the present contract when it was to be executed in the State of Chhattisgarh the Courts at Chhattisgarh would also have jurisdiction. But, once the Petitioner voluntarily agreed to confine the jurisdiction in the event of any dispute in the Delhi Courts “only”, thereby excluding the jurisdiction of the Courts at Chhattisgarh, in view of (1989) 2 SCC 163 (A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies, Salem) followed in (2012) 2 SCC 315 (A.V.M. Sales Corporation v. Anuradha Chemicals Private Limited), we are of the considered opinion that this writ petition is not maintainable here.

4. Leave is sought to withdraw the writ petition for presenting it before the Court of competent jurisdiction. The Court has not had the occasion to enter into the merits of the dispute and the withdrawal of the writ petition cannot be construed as any opinion or observation on the merits which is for the competent Court of jurisdiction to consider it on its own merits in accordance with law.

5. The writ petition is dismissed as withdrawn with the aforesaid liberty.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE