

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 248 of 2016**

Umesh Kumar Jaiswal S/o Late Shri Punni Lal Jaiswal Aged About 39 Years R/o Behind Of D.P. Vpr Collage Tikrapara, Thana & Post City Kotwali, Tahsil & Distt. Bilaspur (Chhattisgarh)

---- Appellants**Versus**

1. State Of Chhattisgarh Through Secretary, Lok Nirman Vibhag, Mahanadi Bhawan, Naya Raipur (Chhattisgarh)
2. Secretary, Chhattisgarh Lok Aayog, Gandhi Chowk Raipur, Tahsil & District Raipur (Chhattisgarh)
3. C.B.I. Office Plat No. 5- D C G M Complex, Lodhi Road New Delhi

-----Respondents

For Appellant:

Appellant in person.

For Respondents/State:

Shri YS. Thakur, Deputy Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Deepak Gupta, Chief Justice****14/07/2016**

1. This Writ Appeal is directed against the order dated 2.3.2016 passed by the Learned Single Judge in Writ Petition (C) No.122/2016 whereby he dismissed the Writ Petition filed by the Appellant and imposed costs of Rs.50,000/- upon him.

2. The grievance of the Appellant is that during the construction of the building of the High Court of Chhattisgarh, the Office of the Advocate General, the Bar Building comprising of Bar Rooms and Advocate Chambers as well as the Typist Block, sub-standard material was used and the construction is of inferior quality. According to the Appellant, lot of corruption took place during the construction of the said building.

3. The first Petition was filed by the Appellant in the year 2011 which was registered as W.P.(C) No.7609/2011. This Petition was directed to be treated as PIL. On 31.10.2012, the Appellant withdrew the said Writ Petition with liberty reserved to him to avail an appropriate remedy in accordance with law. It appears that thereafter, the Appellant filed some complaints to various authorities. He then filed another PIL registered as W.P.(PIL) No.41/2013. This Petition was dismissed as not maintainable in view of the fact that the Appellant had withdrawn the earlier Writ Petition. Thereafter, the Appellant filed another Writ Petition i.e. W.P.(C) No.1012/2014. In this Petition, the grievance of the Appellant was that his complaints are not being enquired into by the authorities. The said Petition was disposed of vide order dated 16.5.2014. In the order, it was clearly observed that the complaint of the Appellant is pending before the Chhattisgarh Lok Ayog and it would be open for the Appellant to pursue his complaint before the Lok Ayog.

4. Thereafter, the Appellant filed another Writ Petition registered as W.P.(C) No.1676/2014 praying for directions to the Lok Ayog to dispose of the Petition on an expeditious basis. This Petition was disposed of with an observation that the earlier Petition had only been disposed on 16.5.2014. Thereafter, the Petitioner had filed another Petition being W.P.(C) No.163/2015. In this Petition, notice was issued and the Lok Ayog submitted its return, in which it was mentioned that enquiry is pending before it. Within just six months of this order, the Appellant filed Writ Petition (C) No.122/2016 out of which, the present Writ Appeal arises. Now his prayer is that the entire matter may be got enquired into by the CBI.

5. The learned Single Judge found that the Appellant has suppressed the order passed in W.P.(PIL) No.41/2013 which had been dismissed by the Division Bench on 15.7.2013 in the following terms.

“4. Since the earlier PIL filed by the Petitioner, which was on the same subject issue, was dismissed as withdrawn by giving liberty to the Petitioner to avail other appropriate remedies under the law, this second PIL on the same subject would not be maintainable.

5. W.P.(PIL) No.41/2013 therefore, is dismissed as not maintainable. However, the liberty granted to the Petitioner in the earlier PIL shall stand as it is.”

6. As noted by the Learned Single Judge, the first PIL filed by the Petitioner i.e. W.P.(C) No.7609/2011 was withdrawn by the Appellant with liberty to avail the appropriate remedy. The Appellant has taken appropriate remedy of approaching the Lok Ayog. He cannot now come and pray that this matter should be transferred to the CBI.

7. Even on merits, we find that the Appellant is not able to satisfy this Court that there is merit in his case. Today, when we questioned the Appellant as to how he was alleging that there was defect in the construction or that the construction of the High Court building was sub-standard, he has not been able to give any satisfactory answer except to say that the metalling has not been properly done in the ground floor of the building. When further questioned as to how he came to know about the sub-standard construction, he stated that he was working as petty contractor during the construction of the High Court building. He was engaged for doing brick work and other civil works on labour rate basis in this building. According to him, he observed that improper work was done in the year 2008 till the year 2010. He did not make any complaint while he was working as contractor in the High Court. He was part and parcel of the construction team and if he had felt that some improper work was being done, he should have raised his voice at that time. He did not do so. After he stopped working in the High Court building for the

reasons which have not been disclosed, he for the first time, made a complaint in the year 2010. What is even more surprising and shocking is that the Appellant never disclosed the fact that he had worked as a petty contractor in the High Court in any of the cases filed by him in this Court. In all these cases, he only submitted that he is a public spirited person filing the Petition in the public interest. Till date, no material has been placed on record to substantiate his allegation that the work is sub-standard. Other than making a wild allegation that the work is of sub-standard quality, there is no material in this Writ Petition to support his allegation.

8. We are not saying anything further in the matter because the Lok Ayog, after recording evidence, may come to its own decision whether the work is sub-standard or not. But so far as this Writ Appeal is concerned, on the basis of the material placed on record by the Appellant other than his allegation that the work is sub-standard and the matter be referred to CBI, not a single document has been placed on record to show as to how the Appellant states that the work is sub-standard. The Appeal, on merits, must fail.

9. Furthermore, the Appellant has withheld material facts from this Court by concealing the order dated 15.7.2013. When any person files a Petition in the public interest, he must disclose all relevant facts to the Court and should not suppress any relevant material. He must disclose whether he has any interest in the matter or not. It was the duty of the Appellant to have disclosed the fact that he was working as a Petty Contractor. This was a relevant fact which should have been disclosed by the Appellant. He also withheld the order dated 15.7.2013.

10. Keeping in view the fact that the Appellant was appearing in person,

we had on the last date of hearing, passed the following the order:

“We have explained to the Appellant that if he argues the appeal on merits, he may succeed but if he loses the Petition, we may not reduce the costs imposed upon him. We have also informed him that if he only wants reduction of costs, he must file apology on affidavit wherein he shall undertake not to repeat the mistake of withholding facts from the Court in future.”

We had made it clear that if he loses the Petition, we may not even reduce the cost imposed upon him. We had also informed him that he must file an apology. The Appellant, despite this order being passed, has today insisted that his only prayer is that the matter be referred to the CBI. We can refer the matter to the CBI only if we have any prima facie material before us to show that there is some substance in the allegation made by the Appellant. As pointed out earlier, no such material has been placed on record. The Appellant, has been time and again approaching this Court not disclosing proper facts and despite advice being given to him, he does not even want to apologize or rectify his mistake.

11. We therefore, have no option but to dismiss the Appeal and we impose further costs of Rs.25,000/- on the Appellant. Both the costs imposed i.e. the cost imposed by the Learned Single Judge as well as by us today i.e. Rs.75,000/- in all be deposited with the High Court Legal Services Committee within 2 months failing which, the same shall be recovered as arrears of Land Revenue. It is also made clear that no further Petition filed in this regard by the Petitioner shall be entertained by this Court unless the Petitioner deposits the entire costs.

12. We further make it clear that Lok Ayog shall deal with the complaint of the Appellant on its own merits on the basis of material and evidence led

before it and the observations made in this Petition are only for deciding this matter. The Lok Ayog shall not be influenced by any of the observations made by us in this Writ Appeal.

13. The Writ Appeal is accordingly dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE

Priya