

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1632 of 2017**

M/s Unique Enterprises Telibandha, District Raipur Through Its Partner Anurag Sahu, S/o Shri R. C. Sahu, Aged About 28 Years, R/o Q-13, Green Paradise, Vishal Nagar, Telibandha, District Raipur (Chhattisgarh)

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

1. State of Chhattisgarh Through : Secretary, Rural Engineering Service, Mahanadi Bhawan, New Mantralay, Raipur (Chhattisgarh)
2. The Engineer In Chief, Rural Engineering Service, Indrawati Bhawan, New Mantralay, Raipur (Chhattisgarh)
3. The Chief Engineer, Rural Engineering Service, Civil Lines, Raipur, District Raipur (Chhattisgarh)
4. The Superintending Engineer, Rural Engineering Service, Near Collectorate, Raipur, District Raipur (Chhattisgarh)
5. Executive Engineer, Rural Engineering Service, Basna, Mahasamund, District Mahasamund (Chhattisgarh)

**---- Respondents**


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| For Petitioner       | : | Shri Apoorv Tripathi, Advocate       |
| For Respondent/State | : | Shri U.N.S. Deo, Government Advocate |

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**Hon'ble Thottathil B. Radhakrishnan, Chief Justice**  
**Hon'ble Shri Justice Sharad Kumar Gupta**

**Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****06.09.2017**

1. This writ petition is instituted challenging Annexure-P/1 dated 06.05.2017 by which a civil contract work awarded to the Petitioner was cancelled. The Petitioner also challenged the subsequent Notice Inviting Tender issued on 24.05.2017, re-arranging the work.
2. The controversy projected at the stage of admission was noted to be one whether the official respondents were proceeding to re-arrange and have the remaining work done without measuring the work that was done by the Petitioner. Therefore, an order was issued on 12.04.2017, *inter-alia*, to the following effect :

“The Petitioner was awarded a civil works contract. It appears that the said contract has been terminated and the work has been re-arranged by issuing a fresh Notice Inviting Tender (NIT).

The learned counsel for the State submits that the response made to the fresh NIT has been accepted and the remaining work has been awarded to another person. This obviously means that the quantity of work done by the Petitioner has to be ascertained to settle the disputes between the State and the Petitioner. The first step in this regard is to have the work done by the Petitioner measured in accordance with requirement of the Public Works Department Norms. The learned counsel for the State will obtain instructions as to when the Petitioner should be available for recording the measurement.

Due process has to be carried, including the presence of witnesses for such measurement as may be found required in accordance with the rules and procedures.

The site of the works shall not be handed over to any other person and no person other than the Petitioner shall carry out any work in the site in question till the next date of hearing.”

3. Thereafter, there was some controversy as to whether the Petitioner was available while measurement was to be taken. A further order was issued on 18.07.2017 quoting the order dated 12.07.2017 and further stating as follows :

“The official Respondents have placed pleadings.

The requirement is to take the measurement of the work stated to have been done by the Petitioner.

The Respondents have stated that a *Panchnama* has been prepared after prior notice to the Petitioner. At this stage, it is appropriate that the said controversy is kept aside since the ultimate requirement is to ensure that the work is got done.

Therefore, we accept the offer of the Petitioner made in the presence of learned counsel for the State that the Petitioner will make present himself at 10:00 am on 01st August, 2017 at the site in question so that the official Respondents can take the measurement and prepare a *Panchnama* in the presence of the Petitioner.

All issues will stand open for further consideration.”

4. As of now, the work done by the Petitioner has been measured and work has been re-arranged. Obviously, therefore, it is not anymore within the domain of the writ Court, in all reasonableness, to sit in judgment on the correctness or

otherwise of the quantification of amounts, for which the Petitioner could be found eligible or the quantum of work and probable amount of contract which could govern the second Notice Inviting Tender issued for re-arrangement of works. These are not matters which call for adjudication in writ jurisdiction.

5. With the aforesaid, leaving the Petitioner to enjoy the benefit of the measurements carried out and the quantification that may follow it and preserving all his right to seek remedies from appropriate jurisdictions, in accordance with law, this writ petition is dismissed.

Sd/-  
**(Thottathil B. Radhakrishnan)**  
Chief Justice

Sd/-  
**(Sharad Kumar Gupta)**  
Judge