

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1930 of 2017**

Pratap Dalai S/o Dhobi Dalai, aged 57 years, Contractor, Shop No. 5, Below Rice Bowl Restaurant, CRPF Square, Naya Palli, Bhubaneswar, Odisha.

---- Petitioner**Versus**

1. The State of Chhattisgarh, Through Secretary, Public Works Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Superintending Engineer, Public Works Department, Durg, District Durg, Chhattisgarh.
3. Executive Engineer, Public Works Department, Rajnandgaon, Chhattisgarh.
4. Sub Divisional Officer, Public Works Department, Sub Division No. 1, Rajnandgaon, Chhattisgarh.
5. Senior Divisional Accounts Officer, Public Works Department, Division Rajnandgaon, Chhattisgarh.
6. N.N.Patil, Sports Officer, Bhilai Steel Plant, Bhilai, District Durg, Chhattisgarh.

---- Respondents

For Petitioner : Shri A.K.Prasad, Advocate.

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

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

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****14/07/2017**

1. We have heard the learned counsel for the Petitioner and the learned Additional Advocate General for the State.
2. The Petitioner was awarded the work to put up two acrylic surface lawn tennis courts. That work was awarded sometime in 2014. The Petitioner is before this

Court contending that he had completed the work but the Respondents had demolished it and are now proceeding to consider the second Notice Inviting Tender; for short 'NIT', for the same purpose. He seeks that the said second NIT be quashed and that he may be permitted to continue with the work or the Respondents be directed to pay him an amount around of Rs. 32 Lacs which he claims as amount due to him for the works carried on by him through the first NIT.

3. The aforesaid factors would show that even according to the Petitioner, whatever construction he has made, was pulled down by the Respondents. Whether that was wrongful or not, is itself a question of fact, to be decided in accordance with law in competent jurisdiction. That apart, issuance of the second NIT cannot be interfered with merely on the plea of contractor who was awarded the work following the earlier NIT that he had completed the work which the Respondent had demolished the work without payment. All that position notwithstanding, the learned Additional Advocate General points out that there is an arbitration clause in the contract between the parties.
4. Having regard to the question involved between the parties, we do not see that the issues raised are justiciable under Article 226 of the Constitution. This writ petition cannot be therefore entertained.
5. For the aforesaid reasons, without prejudice to the contentions in other jurisdictions in accordance with law, this writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE