

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.2852 of 2017**

M/s Rahul Construction (Partnership Firm) Registered Office Vivekanand Nagar, Ratnabandha Road, P O Tehsil And District Dhamtari, Through Power Of Attorney Manoj Kumar Patel S/o Shri Raman Bhai Patel, Aged About 54 Years R/o Senate City, House No. 70 Village Ratnabandha, P O Arjuni Tehsil And District Dhamtari Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, New Raipur Chhattisgarh.
2. The Chief Engineer, Public Works Department, Bastar Area, Jagdalpur, District Bastar Chhattisgarh.
3. Superintending Engineer, Kanker Board, Public Works Department, Kanker Chhattisgarh.
4. The Executive Engineer (B/R), Public Works Department, Kanker Division District Kanker Chhattisgarh.

---- Respondents

For Petitioner : Mr. Rahul Jha, Advocate
 For State : Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

27/10/2017

(1) Learned counsel appearing for the petitioner submits that the petitioner's appeal provided under Clause 28 of the Agreement is an effective remedy but the appellate authority has refused to examine the merits of appeal relying only on Clause No.2 on the assumption that the decision of the lower authority is final. He submits that similar issue was considered and decided by this Court vide order dated 01.03.2016 in WPC No.540/2016.

(2) Learned State counsel opposes and submits that though in brief, there is consideration of petitioner's appeal. Therefore, it cannot be

said that the appellate authority has not decided anything.

(3) After going through the order passed by this Court in WPC No.540/2016 and perusal of impugned order in the present case, I find that the appellate authority has not examined the grounds raised in the appeal in view of Clause 2 of the Agreement. Therefore, this case is also similar to the one earlier decided.

(4) Accordingly, the impugned order is set aside and the matter is remanded back to respondent No.2 to examine the appeal on merits and take decision in accordance with law.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-