

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 954 of 2016

R. K. Transport & Construction Pvt. Ltd. Reg.No.015609, Through
Its Director, Mr. Amar Agrawal, S/o Shri Satyanarayan Singhal,
Aged About 48 Years, Having Its Head Office At 65-A, Transport
Nagar, Korba- 495677, Chhattisgarh **---- Applicant**

Versus

1. State Of Chhattisgarh Through The Secretary, Public Works
Department, Mahanadi Bhawan, New Raipur, District Raipur,
Chhattisgarh
2. Chief Engineer, Public Works Department, Raigarh Division
Raigarh, Chhattisgarh
3. Superintendent Engineer, Public Works Department, Bilaspur
Division, Bilaspur, Chhattisgarh
4. Executive Engineer, Public Works Department, Bilaspur Division,
Bilaspur, Chhattisgarh **---- Respondents**

For Applicant	:	Mr. Vivek Chopda, Advocate
For State	:	Mr. D.R. Minj, Dy. G.A., on advance copy

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03/02/2017

Heard.

1. This is an application for condonation of delay in filing present application for modification.
2. Having perused the grounds raised in the application, we are satisfied that just and sufficient cause have not referring the application within limitation. Delay in filing the application is, therefore, condoned.
3. Learned counsel for the applicant submitted that this Court clearly held that in the absence of any show cause notice before effecting recovery from subsequent contract, the order of recovery is not

sustainable. However, the communication dated 24.06.2014 which mentioned that recovery has already been made, does not find place in the order. Therefore, only to that extent, appropriate modification may be made.

4. Learned State counsel could not dispute that this Court vide order dated 01.12.2014 held recovery to be bad in law on the ground that before recovery, the petitioner was not given any opportunity of hearing.

5. In view of the aforesaid submissions made by learned counsel for the parties, we find that the application has made out a case for modification of the order passed earlier on 01.12.2014. We accordingly clarify and modify that the order in effect declares recovery illegal and therefore, it will also have the effect of nullifying the recovery proceedings and consequent communication dated 24.06.2014.

6. With the said modification/clarification, this MCC is disposed off.

7. The applicant shall place a copy of this order for due compliance before the concerned authority.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Goutam Bhaduri)
Judge