

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.2389 of 2016**

M/s Rani Constructions Pvt. Ltd. C-10, Community Centre, Ashoka Tower, 2nd Floor, Janakpuri, New Delhi – 110058, through its Chairman Shri Galla Gundaiah

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Irrigation Department, Govt. of Chhattisgarh, Mahanadi Bhawan, New Raipur, Raipur (CG)
2. The Executive Engineer, Water Management Division No.01, Irrigation Department, Raipur (CG)

---- Respondents

For Petitioner	:	Mr.S. Rajan and Mr.Harsh Wardhan, Advocate
For Respondents	:	Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

1/8/2017

1. By the impugned order, application for amendment filed by the petitioner has been rejected by the Arbitration Tribunal, Raipur.
2. Mr.S. Rajan, learned counsel appearing for the petitioner, would submit that amendment is formal in nature and no further evidence is required to be led by the petitioner, therefore, the Tribunal ought to have allowed the application for amendment. He would bring to notice of this Court of the order passed in Civil Revision No.1340 of 1999, wherein this Court has held that question of limitation will be decided by the Tribunal at the time of final hearing along with all the issues, therefore, the impugned order deserves to be set aside.
3. On the other hand, Mr.Arun Sao, learned Additional Advocate General appearing for the respondents/State, would vehemently oppose the writ petition and submit that amendment is barred by limitation.

4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. This Court in Civil Revision No.1340 of 1999 has held that question of limitation being mixed question of law and fact will be decided by the Tribunal at the time of final hearing and the petitioner will be entitled to file an application for amendment.
6. Since in the proposed amendment the petitioner is seeking to quantify one of existing claims which has already been made in the reference petition, the proposed amendment is allowed as the same will not change the nature of reference petition. However, the parties will not be entitled to lead further evidence on the basis of proposed amendment. Question of limitation can be raised by the parties at the time of final hearing. Impugned order is set aside in part.
7. With the aforesaid observation, the writ petition finally stands disposed off.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-