

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 291 of 2017**

- Sheel Biotech Limited, through its General Manager Sudhir Chauhan, aged about 50 years, R/o RZ-2705/30, Sheel House, Main Jagdamba Road, Tughlakabad Extn., New Delhi: 110019

---- Petitioner**Versus**

1. Director, Horticulture & Farm Forestry, Government of Chhattisgarh, Indravati Bhavan, Naya Raipur (C.G.)
2. Secretary, Government of Chhattisgarh, Department of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
3. Saveer Biotech Ltd., 1442, Choudhary Hardhyan Marg, New Delhi- 110003

---- Respondents

For Petitioner	:	Smt. Renu Kochar, Advocate
For Respondents 1 and 2	:	Shri U.N.S. Deo, Government Advocate
For Respondent No.3	:	Shri Roop Naik, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Arvind Singh Chandel, Judge

Order on Board**Per, Thottathil B. Radhakrishnan, Chief Justice****04/10/2017**

1. We have heard the learned counsel for the petitioner, the learned Government Advocate and the learned counsel for the private respondent.
2. Going through the materials and the interlocutory orders which have been issued by this Court and in the light of the pleadings on record, we see that the official respondents indicate that the proposed contract was in relation to three districts. That is not a matter in issue herein. There was an

interlocutory order at the stage of admission of this writ petition directing that award of any contract will be subject to the result of the writ petition. Obviously, that has to be. Ultimately, the private respondent was awarded the work. There is now an interim order holding back release of the payments that are due to him.

3. The fact of the matter remains that the works have been carried forward to such an extent where the clock cannot be put back to enable the petitioner to step into the shoes of the contractor who is now doing the work or has done and completed work. It will also not be permissible pull down the entire work done by somebody and let the petitioner do the work again. All that would be available to the petitioner is the enforcement of legal rights referable to the law of contracts, be it a case of unlawful exclusion from the competitive public sector contract in question or resulting in prevented gains by unlawful and illegal exclusion from the competitive realm of those contracts. Various principles which could be asserted by the petitioner in the realm of contracts and the defences that may be available to the State in that regard ought to be left open by us since they are not justiciable in writ jurisdiction. It will not be possible to enter on adjudication and decide on mixed questions of fact and law, which have to be best left to the domain of the Civil Courts for decision, if such issues are raised through properly constituted litigations.
4. For the aforesaid reasons, this writ petition is closed holding that no relief could be granted in the writ petition with passage of time and leaving the petitioner with liberty to pursue all remedies that may be available before Civil Court in accordance with law.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Arvind Singh Chandel)
Judge