

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 424 of 2017

(Arising out of order dated 20.09.2017 in WPC- 2579 of 2017)

- Girja Shankar Dubey S/o Late Bisahu Prasad Dubey, Aged About 42 Years R/o Village Kalkasa, Post Malighori, Tahsil Dondilohara, District Balod, Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Urban & General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Director, Urban And Administration Department, Indrawati Bhawan, New Raipur, District Raipur, Chhattisgarh
3. Deputy Director, Urban and Administration Department, Indrawati Bhawan, New Raipur, District Raipur, Chhattisgarh
4. Collector, Balod, District Balod, Chhattisgarh
5. Nagar Panchayat Dondilohara, Through Chief Municipal Officer, Nagar Panchayat Dondilohara, District Balod, Chhattisgarh

----Respondents

For Appellant	: Smt Hamida Siddiqui, Advocate
For Respondent/State	: Shri RK Gupta, Deputy Advocate General
For Respondent- 5	: Shri HB Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

15.11.2017

1. This Writ Appeal is against the decision of the learned Single Judge refusing to grant relief in relation to a claim for release of amounts following the conclusion of a contract.
2. We have heard the learned counsel for the appellant, the learned Deputy Advocate General and the learned standing counsel for respondent- 5.

3. Seeing the materials on record, we notice that the funding by the State Government is made for the work that is carried out through the Nagar Panchayat, which is the executing authority. The learned counsel for the appellant points out that Annexure A/8 would show that an amount of Rs.8,86,000/- is due to the appellant. However, advertent to Annexure A/9, it can be seen that the District Collector, Balod had taken the view that out of that amount of Rs.8,86,000/-, only an amount of Rs.4,14,252/- is liable to be released. According to the appellant, even that amount has not been released. The appellant has the further complaint that in certain other cases of similar nature, entire amounts have been released. It is also the complaint of the appellant that the entire amount Rs.8,86,000/- ought to be released, as there is no reason to take any view to the contrary.

4. While the learned Single Judge is justified in making the reference to the judicial precedents noted in the impugned judgment, leading to the conclusion that disputed questions of facts in relation to the discharge of contractual liabilities in cases of instant nature ought not to be adjudicated in writ jurisdiction, in the light of the District Collector's order, it is only just and proper that the amount of Rs.4,14,252/- stated in Annexure/9 is released to the appellant at the earliest in accordance with law. Once the undisputed amount of Rs.4,14,252/-, less recoverables in accordance with law, is released, other issues would be left open for the appellant to raise before the competent authority, including the judicial authority, in accordance with law.

5. In the result, the appeal is allowed in part modifying the impugned judgment and directing that an amount of Rs.4,14,252/-, less recoverables in accordance with law, shall be released to the appellant / Writ Petitioner towards balance amount payable to him in relation to the contract which is the subject matter of the Writ Petition, without prejudice to his claim and contentions for the remaining amounts; claim for which may be raised before the competent authority, including the judicial authority, in accordance with law.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge