NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 727 of 2017

- Smt. Anand Singh, Through Its Power Of Attorney Holder, Rajesh Dubey, S/o Shri Ramdas, Aged About 48 Years, R/o Ward No. 11, Satna Road, Maihar, District Satna, (Madhya Pradesh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: Secretary, Public Works Department (National Highway), D.K.S. Bhawan, Raipur, District- Raipur, Chhattisgarh
2. Superintending Engineer, National Highway, Division No. 1, Public Works Depertment, Pension Bada, Raipur, Chhattisgarh
3. Executive Engineer, Public Works Department (National Highway No. 1), Pension Bada, Raipur, District- Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Anshuman Shrivastava, Advocate
For State	:	Shri R.K. Mishra, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

30/03/2017

1. Heard.
2. The petitioner has filed this petition seeking a direction against the respondents to extend the period of collection of toll tax beyond 31/03/2017 on the submission that on account of notification issued by the Government demonetizing currency of particular denomination, the petitioner was directed by the respondents not to collect toll tax for the period from 09/11/2016 to 02/12/2016. It is submitted that for none of the fault of the petitoner, the petitioner could not recover the toll tax and thereby suffered losses. therefore, the respondents ought to have acted fairly by extending the period of recovery of toll tax.
3. On the other hand, learned counsel for the respondents submits that as a dispute has arisen between the parties, the petitioner is at liberty to approach the Superintending Engineer for decision of dispute.

4. Present is not a case where disputed facts are involved. It is not a case of dispute of ordinary nature. If the case of the petitioner is that because of the restraint order issued by the respondents-authorities on account of situation existing due to demonetization, he could not collect certain period, it would only fair for respondents to appropriately compensate the petitioner or to consider extension. I find that in the agreement between the parties there is no clause of extension of contract.

5. Therefore, considering that respondents are State under Article 12 of the Constitution of India, irrespective of any contractual obligation, they are required to act fairly, consistent with Article 14 of the Constitution of India, even in contractual matter as held by the Supreme Court in ***ABL International Ltd. and Another vs. Export Credit Guarantee Corporation of India Ltd. and Others, (2004) 3 SCC 553*** the State-respondents should either compensate the petitioner for the period during which he could not collect the toll tax for none of his fault or they may consider whether it should be extended for corresponding period during which he could not collect toll tax. Either way, decision should be taken by the competent authority within a period of 60 days from the date of receipt of copy of this order.

6. The petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Kamde