

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 820 of 2017

Chhattisgarh Gramoudyog Garment & Leather Works 30- A (B. S. P.) Ruwabandha Sector, Bhilai Nagar, District Durg (Chhattisgarh) Through Its Proprietor Ram Narayan Kori, S/o Late Guljar Kori, Aged About 45 Years, R/o 30- A (B. S. P) Ruwabandha Sector, Bhilai Nagar, District Durg (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mahanadi Bhawan, Post Mantralaya, Police Station Rakhi, Naya Raipur, Civil & Revenue District Raipur (Chhattisgarh) 492002.
2. Director General Of Police, Police Head Quarters, Post Mantralaya, Police Station Rakhi, Naya Raipur, Civil & Revenue District Raipur (Chhattisgarh) 492002.
3. Inspector General Of Police, (P & P), H. O. D. Building, Block No. 2, Naya Raipur, Post Mantralaya, Police Station Rakhi, Naya Raipur, Civil & Revenue District Raipur (Chhattisgarh) 492002.
4. Assistant Inspector General Of Police, (P & P) For Director General Of Police, Police Head Quarters, Post Mantralaya, Police Station Rakhi, Naya Raipur, Civil & Revenue District Raipur (Chhattisgarh) 492002.
5. Managing Director, Chhattisgarh Khadi Tatha Gram Udyog Board, Praveen Bhawan, 27/520, New Shanti Nagar, Raipur (Chhattisgarh) 492001.

---- Respondents

Shri Ajay Kumrani, counsel for the petitioner/s.
Shri Manish Nigam, Panel Lawyer for the State on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/04/2017

By this petition, under Article 226/227 of the Constitution of India, the petitioner has prayed for quashing of penalty order dated 31/08/2016 and communication dated 09/01/2017 and 04/03/2017 issued by respondent No.4. The petitioner has also prayed for a direction to the respondents to refund penalty amount of Rs.8,40,346/- to the petitioner along with interest @ 12%.

2. Learned counsel for the petitioner submits that in the matter of supply of school uniforms to the respondents under an agreement entered into with respondent No.5, the petitioner had been supplying the uniform and for valid reasons, the petitioner could not complete supplies within time. An application for extension of time was also made by the petitioner but the respondents rejected the application and imposed penalty for delay in supply. The challenge is made to the impugned action on the ground that there were justified reason for delay in supply and the petitioner was entitled to extension of time as per Clause 4.13 of the Chhattisgarh Store Purchase Rules, 2002 (for short 'the Purchase Rules')

3. After going through the communication dated 04/03/2017, I find that a detailed consideration has taken place and the authority has found that delay in supply was not justified. The representation of the petitioner has been rejected.

4. Therefore, it appears that representation of the petitioner has been considered by the authority and for certain reason, representation has been rejected on the finding that there was no proper justification for delay in supplies. The dispute raised by the petitioner on this aspect essentially involves enquiry into disputed questions of fact. Whether the delay in supply was justified or not and whether for that reason, the petitioner was entitled to extension under Clause 4.13 of the Purchase Rules, would require enquiry into facts.

5. I do not find that while rejecting petitioner's application, the respondents have acted with arbitrariness so as to warrant interference by this Court even in the matter of contractual dispute by application of law laid down in the case of **ABL International Ltd. & anr. Vs. Export Credit Guarantee Corporation of India Ltd. and Ors. (2004) 3 SCC 553**. The dispute being in the realm of factual aspects, petitioner's remedy lies in approaching the Civil Court for seeking appropriate relief. The petition is, therefore, dismissed with liberty to take recourse to civil remedy.

Sd/-
(Manindra Mohan Shrivastava)
Judge