

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2681 of 2016

M/s Jagatpal Singh Head Office T-5 Adarsh Nagar, Durg Chhattisgarh Through Its Proprietor Shri Jagtpal Singh, S/o Shri Harnarayan Singh, Aged About 65 Years, R/o T-5 Adarsh Nagar, Durg Chhattisgarh Police Station City Kotwali, Post Office Main Post Office, Durg, District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Rural Engineering Service, Mahanadi Bhawan, Naya Raipur, Head Post Office Raipur, Police Station Telibandha, Tehsil & Revenue District Raipur Chhattisgarh
2. The Executive Engineer, Rural Engineering Services, Division Durg Chhattisgarh Head Post Office Durg, Police Station City Kotwali, Tehsil & Revenue District Durg Chhattisgarh 491001

---- Respondents

Shri Sourabh Jain, counsel for the petitioner/s.
Shri R.K.Mishra, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/05/2017

Though number of opportunities were granted, even last opportunity was granted to learned counsel for the respondents to seek instructions in the matter and response to petitioner's case that the issue involved in this petition is covered by order passed by the Division Bench of this Court in the case of **M/s. Shree Construction v. State of Chhattisgarh and others** [WPC No.5717/2011] decided on 10/04/2012, learned State counsel failed to submit any reply.

2. Learned counsel for the petitioner submits that despite order passed by the Division Bench in favour of the petitioner on 06/01/2015 in WPC No.1154/2013 (*M/s. Jagatpal Singh v. State of Chhattisgarh and anr.*) refund has not been made to the petitioner and infact, a letter was issued on 09/02/2015

by the Executive Engineer stating that the recovery has been made from the petitioner.

3. Once the Division Bench passed an order on 06/01/2015 stating that recovery of Rs.12,90,000/- could not be made from the running bills under Agreement No.10/DL in respect of any dues under Agreement No.09/DL, the amount which has been deducted is liable to be refunded. Infact, the Division Bench had already directed that any deduction made from the running bills under Agreement No.10/DL not referable to that contract, shall be refunded within a period of eight weeks, it appears that a fresh order was again passed on 09/02/2015 again repeating the same illegality. Therefore, the impugned letter (Annexure P/1) is illegal and is quashed. The amount recovered from the petitioner shall be refunded. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge