

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 376 of 2018**

- Hindustan Steel Works Ltd (H.S.C.L.) (A Govt. Of India Enterprise) Through Its Executive Director, Nirman Bhawan, Bhilai, District, Tahsil Durg, Chhattisgarh.

---- Petitioner

Versus

- Naya Raipur Development Authority, Through : its Chief Executive Officer, Paryavas Bhawan, North Block, Sector 19, Naya Raipur, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri N. Naha Roy, Advocate
For Respondent	:	Shri Anumeh Shrivastava, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Order on Board****Per, Thottathil B. Radhakrishnan, Chief Justice****07/02/2018**

1. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondent – Naya Raipur Development Authority (N.R.D.A.).
2. The Respondent floated a tender for the construction of Boys and Girls Hostel including compound wall for Indian Institute of Information Technology at Naya Raipur. The work was awarded to the Petitioner and agreement was entered into on 27.03.2017. The various correspondence referred to in the impugned Annexure-P/1 shows that there was a pre-decisional notice on 11.01.2018 and the Petitioner had responded it on 16.01.2018. Thereafter, the impugned Annexure-P/1 was issued on 30.01.2018 terminating the contract and forfeiting absolutely the earnest money deposit, security deposit and performance guarantee in favour of the Respondent. Annexure-P/1 states that the Chief Executive Officer of Naya Raipur Development Authority is of the opinion that the

reply of the Petitioner is not satisfactory and no action was taken at site indicating the intention of the Petitioner to complete the work in the stipulated time.

3. The aforesaid factors would indicate that various questions of facts would necessarily arise for adjudication if we were to sit in judgment for the correctness or otherwise of Annexure-P/1 termination order. For one thing, we do not see any ground justiciable under Article 226 of the Constitution, in relation to the construction contract and its alleged breach and consequential termination. Beyond that, there is an alternate efficacious remedy by way of arbitration in the contract between the parties.
4. Learned counsel for the petitioner very persuasively submitted that there may be some protection order. But, no such order could be made in writ jurisdiction on the facts and circumstances of this case. We also cannot be oblivious of the fact that remedies are available by way of interim measure in relation to matters which fall under an arbitral agreement. We are satisfied that no justiciable ground is made for interference under Article 226 of the Constitution on the facts and in the circumstances of the case. However, this judgment will not preclude any of the remedies that the Petitioner may have in appropriate jurisdiction, including in terms of the arbitration clause in the agreement between the parties.
5. In the result, the writ petition is dismissed such to what is stated above.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge