

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Petition (C) No. 1823 of 2018

KSD Construction Through its Partner Sanjay Jaiswal, S/o Shri S.D. Jaiswal, Aged 43 Years, R/o C/193, Shailendra Nagar, Raipur Chhattisgarh.

---- **Petitioner**

Versus

Chhattisgarh Police Housing Corporation, Through Its Managing Director, Old Police Headquarters Building Beside Governor House, Civil Lines, Raipur 492001

---- **Respondent**

For Petitioner	: Shri Kshitij Sharma, Advocate.
For Respondent	: None.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Pritinker Diwaker, Judge

Order on Board

12/07/2018

Per Ajay Kumar Tripathi, Chief Justice

1. Vide order dated 11.05.2018 issued under the signature of the Managing Director, Chhattisgarh Police Housing Corporation Limited, the contract awarded to the Petitioner for construction of certain houses in Police Academy, Chandkhuri stands terminated. The primary reason thereof seems to be non-adherence to the time schedule for completion of the contract even in the extended time granted to the Petitioner.

2. Many submissions have been made while assailing the order dated 11.05.2018 contained in Annexure P/1, but since the issue primarily relate to factual aspect as well of the matter in relation to non-completion or incomplete work coupled with the fact that the contract itself contains an arbitration clause under Clause 28 of the Conditions of Contract, we are not inclined to go into the *nitty-gritty* of the dispute raised herein.

3. Counsel for the Petitioner submits that since the decision has been taken by the Managing Director himself, to some extent he becomes remedy less because the decision which are taken by the Project Engineer or Executive Engineer can be assailed before the Managing Director, but since the Managing Director himself has passed the order, therefore, to that extent, the remedy has been lost.

4. While reading Clause 28, we notice that against a decision of the Managing Director, a party has been given option to approach the Arbitration Tribunal created in this regard in relation to works contract. Since the Managing Director is the authority who has communicated the decision of termination of contract, therefore, the Petitioner has freedom to approach the Arbitration Tribunal directly now, assailing the order of the Managing Director.

5. Arguments have also been made with regard to the measurement and re-issuance of tender on 'as is where is' basis is where certain objections with regard to the said tender is also argued before us. We can only say that since it is a new cause of action, we will not go into that aspect of the matter in this writ. So far as this writ is concerned, it stands disposed off with liberty to the Petitioner to assail the order dated 11.05.2018 contained in Annexure P/1 before the Tribunal.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Pritinker Diwaker)
JUDGE