

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2743 of 2018

- M/s Sai Construction (Partnership Firm) Head Office At Green Park Colony, Jarhabhata, Bilaspur, Through Its Partner Atul Shukla S/o Shri Sudama Prasad Shukla, Aged About 46 Years R/o Green Park Colony, Jarhabhata, Police Station Civil Line, Tehsil And District Bilaspur (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Public Works Department Mahanadi Bhawan, Mantralaya, New Raipur District Raipur (CG)
2. The Chief Engineer, Public Works Department, Bilaspur Division, Bilaspur District Raipur (CG)
3. The Superintending Engineer, Public Works Department, Bilaspur Zone, Bilaspur, District Bilaspur (CG)
4. The Executive Engineer, Public Works Department, Bilaspur Division No. 1, Bilaspur District Bilaspur (CG)

---- Respondents

For Petitioner	:	Shri K.Bhaduri & Shri R.Jha, Advocates
For Respondents	:	Shri J.K. Gilda, Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, CJ
Hon'ble Shri Parth Prateem Sahu,J

Order on Board

Per Ajay Kumar Tripathi, CJ

30/10/2018

1. Heard learned counsel for the petitioner and learned Advocate General for the State.
2. Vide impugned order dated 15.6.2018 the contract of the petitioner has been terminated which has been labelled as an arbitrary act and assailed in this writ.
3. Work was assigned to the petitioner for four lane widening of NH-49 road

under city portion from Gurunank Chowk to Power House Chowk (total length 1 km). Work was required to be completed within a period of 15 months. Since the petitioner was the successful bidder, he was awarded work and a contract was entered into. The contract is Annexure P-3.

4. When the decision to annul the contract was taken, hardly any significant progress in relation to the work was done and even serious infirmities were found in the portion of work so done by the petitioner. Accepted position is that even till date significant portion of the work has not yet been done by the petitioner.
5. Learned counsel for the petitioner from certain correspondences has tried to convince the Court that failure to achieve the target, complete the work, was attributable to others not only to the petitioner. He has talked about the site being not made available in time, there were trees which were required to cut or removed, which could not be done without permission and due approval, certain temples coming in the way of expansion etc. etc.
6. When the Notice Inviting Tender was issued and the petitioner decided to participate in the tender, as a prudent man he must have done a reconnaissance of the area as to what in terms of the contract was required to be done and impediments which may be awaiting the fulfilment of the award of contract. With all those, if he still decided to bid for the contract, was successful also and despite the terms & conditions of the agreement being rigorous, the petitioner having accepted and put his signature, the failure on the part of the petitioner as to the reasons for such failure will not be examined by us in the writ application.
7. If the agreement has been terminated, there are enough reasons thereof and various correspondences have been made with the petitioner on the issue from time to time. If things could not be put back on the rails then

the respondents cannot be allowed to suffer the failure of the petitioner in complying with the terms and conditions of the contract as well as non-completion also creating impediments for the people in use of an important national highway.

8. The writ application is accordingly dismissed. Let the petitioner fight his legal battle within the framework of the agreement.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-