

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3450 of 2017**

- Hemesh Gandhi S/o Late Shri P. C. Gandhi Aged About 39 Years R/o Vikas Nagar Tehsil And District Kondagaon Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary School Education Department Mahanadi Bhawan New Raipur District Raipur Chhattisgarh.
2. Managing Director, Rashtriya Madhyamik Shiksha Mission, (RMSM) Chhattisgarh, 2 nd Floor , Ekakrit Shiksha Bhawn , Pension Bada Raipur District Raipur Chhattisgarh.
3. Collector Cum District Mission Director, Rashtriya Madhyamik Shiksha Mission, (RMSM) Narayanpur District Narayanpur Chhattisgarh.
4. District Education Officer , Narayanpur District Narayanpur Chhattisgarh.
5. Executive Engineer. State Public Works Department (Building And Road) Narayanpur , Division Narayanpur District Narayanpur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Anup Majumdar, Advocate.
For State/Respondents	: Shri Gagan Tiwari, Deputy Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Sanjay K. Agrawal, Judge****Order on Board****Sanjay K. Agrawal, J.****27.06.2019**

1. Heard Mr. Anup Majumdar, learned counsel for the Petitioner and Mr. Gagan Tiwari, learned Deputy Government Advocate for the State / Respondents.
2. The writ petition is directed against the order dated 24.11.2017 passed by Respondent No. 3, directing registration of FIR against the Petitioner and also for completion of work, failing which appropriate action will be taken against him.
3. This Court entertained the writ petition on 15.12.2017 and also passed an order directing that no distress action shall be taken against the Petitioner. Thereafter, on 14.05.2019, submission was made on behalf of the Petitioner that by virtue of interim order passed by this Court the constructions of school building have already been completed and the Departmental Authorities have informed that

they are ready to conduct inspection in connection with the present work as also in connection with the previous work. Thereafter, the matter again came up before this Court on 16.05.2019. On that day, considering the submission made by the Petitioner, this Court directed the Petitioner and the District Education Officer and other Engineers to conduct inspection on 25.05.2019 and accordingly, inspection report has been filed before this Court. According to the inspection report, construction of both the school buildings have not been constructed in accordance with the drawings and specifications provided and therefore, it is not worth valuation. Copy of the report also has been supplied to the learned counsel for the Petitioner.

4. Today when the matter was taken up for hearing, learned counsel for the Petitioner submits that he may be allowed some more time to complete the construction work of school building and even in the inspection, there was no technical person, therefore no proper inspection has been done.
5. Learned counsel appearing for the State would submit that the Petitioner has not completed the work at all and it is not in accordance with specific design and specification provided and it is likely to be collapsed at any time therefore, no indulgence should be shown to the Petitioner and Petitioner be relegated to the remedy of arbitration in terms of clause 28 of the agreement.
6. We have heard learned counsel for the parties and considered the rival submissions.
7. The writ petition was filed against the order passed by the District Education Officer directing the Petitioner to complete the work immediately as the time allotted for construction has already been expired and it has to be inspected and if the work is not complete, then FIR may be lodged against him, which the petitioner has challenged by way of this writ petition. This Court has

granted interim order in favour of the Petitioner and relying upon the statement, directed for inspection of work, which has been executed by Petitioner qua construction of the two school buildings and as per the inspection report filed by the State, work in question has not been found to be constructed and completed in accordance with the drawing, design and specifications provided by the State Authorities, which the Petitioner is now disputing before this Court and the Petitioner prays that he may be allowed further time to construct the said buildings.

8. Considering the nature of dispute and further considering the report of the Collector in which the school buildings which have been constructed is not in accordance with the work specification and design provided and particularly the school buildings in question are proposed for Model High School at Narayanpur and further considering the submission of the learned counsel for the parties, this dispute is purely contractual in nature and disputed question of facts are involved, we are of the opinion that it is not a fit case where we should interfere in exercise of extraordinary jurisdiction of this Court under Article 226 of Constitution of India and is a fit case where the Petitioner may raise all his dispute by invoking the arbitration clause 28 of agreement entered into between the parties. If such a dispute is raised, we hope and trust that the Arbitrator/Arbitration Tribunal will consider the dispute in accordance with law.
9. With the aforesaid observation, the writ petition finally stands disposed off. It is made clear that the Court has not expressed any opinion on the merits of the matter.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge