

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3159 of 2016

M.D.Akhtar S/o. Abdul Abbas, Aged About 36 Years R/o. Kharsia
Chowk, Ambikapur, Police Station Ambikapur, Tahsil Ambikapur,
District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Public Works
Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New
Raipur, District Raipur Chhattisgarh
2. Superintending Engineer, Public Works Department, Bridge
Construction Circle Raigarh, District Raigarh Chhattisgarh
3. Executive Engineer, Public Works Department, Bridge
Construction Division Raigarh, District Raigarh Chhattisgarh,
4. Sub Divisional Officer, Public Works Department, Bridge
Construction Sub Division No. 1, Raigarh, District Raigarh
Chhattisgarh,
5. Chief Engineer, Public Works Department, Bridge Construction
Zone, Raipur, District Raipur Chhattisgarh
6. Bank Of Baroda, Through Its Branch Manager, Ambikapur
Branch, Deviganj Road, Ambikapur, District Surguja Chhattisgarh

--- Respondents

For petitioner – Shri Manoj Paranjpe, Advocate.
For State-Shri Sudeep Verma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/09/2019

Heard.

1. The instant petition is filed for restraining the encashment of the bank guarantee furnished by the petitioner for a work contract of 2012.
2. It is contended that the time to complete a work contract though was extended under vested power conferred on the Executive Engineer, respondent No.3 under clause 10 of the agreement. It is stated the time for completion of work having been extended the subsequent bank guarantee could not have been encashed for non fulfillment of work on time. It is stated that during the course of pendency of this petition the

entire bank guarantee has been encashed, therefore the State may be directed to return the same.

3. The document filed specially condition of contract 1.17 of the agreement contains an arbitration clause which purports that any dispute including the execution or failure to execute the work the dispute has to be referred to the Superintendent of Engineer. In view of such arbitration clause, further taking into fact that during the pendency of this petition the bank guarantee having been encashed, this petition cannot be converted into a civil suit for recovery of the money. Apart from that the agreement contains arbitration clause. The petitioner shall be at liberty to invoke clause if so advised, I am not inclined to entertain this petition.

4. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE