

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1957 of 2019**

- M/s U. C. Jaiswal A Partnership Firm, Through Its Partner Shri Vipesh Jaiswal Age 42 Years, S/o Shri Uttamchand Jaiswal, Having Its Office At Neerav Need, Police Line Road, Ambikapur, Surguja Chhattisgarh.

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Government Of Chhattisgarh, Mahanadi Bhawan, Atal Nagar Raipur Chhattisgarh.
2. The Chief Engineer Public Works Department, Ambikapur- Surguja Division, District Surguja Chhattisgarh.
3. The Executive Engineer Public Works Department, Bridge Construction Division, Ambikapur Surguja Chhattisgarh

**---- Respondents**


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| For Petitioner        | : | Shri Sharad Mishra, Advocate                   |
| For Respondents/State | : | Smt. Fouzia Mirza, Additional Advocate General |

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**Hon'ble Shri P. R. Ramachandra Menon, Chief Justice****Hon'ble Shri Goutam Bhaduri, Judge****Order on Board****Per, P. R. Ramachandra Menon, Chief Justice****20.06.2019**

1. Challenge is against the termination of the contract awarded by the Respondent-State in favour of the Petitioner.
2. Sequence and events shows that a tender notification was issued by the 3<sup>rd</sup> Respondent in respect to the Construction of High-Level Bridge i.e. Approach Road Across Rehand River on Khopa-Kaskela-Sundarpur Road. The Petitioner participated in the tender and on coming out successful in the bid, Annexure-P/4 work order was issued to him on 15.09.2016 stipulating the time limit as 14 months for completion of the work. It is the case of the Petitioner that because of various reasons, the work could not be completed on time and a request was made by the Petitioner for extension of project completion on 24.04.2018. It was granted and the time was extended as per order dated 17.07.2018 till

31.03.2019. Still the Petitioner could not complete the work. In the said circumstance, the Petitioner sought to terminate the contract for the reasons stated in Annexure-P/21 dated 23.09.2018 preferred before the Executive Engineer. Though the Petitioner preferred an appeal before the Chief Engineer, it came to be rejected, by virtue of which the Petitioner has moved to the Arbitration Tribunal, where the issue is pending. While so, because of the lapses on the part of the Petitioner, a show cause notice was issued by the 3<sup>rd</sup> Respondent on 12.01.2019 to which a reply was submitted by the Petitioner on 21.01.2019. After rejecting the stand taken by the Petitioner vide Annexure-P/28 issued on 15.03.2019, a further show cause notice was issued vide Annexure-P/29 dated 10.04.2019 with reference to the proposed termination of the contract. It is seen from the order under challenge i.e. Annexure-P/1, that the Petitioner had submitted the reply on 24.04.2019 and it was after considering the same that the Annexure-P/1 order was passed on 06.05.2019 putting an end to the contract, which in turn is under challenge.

3. The learned counsel for the Petitioner submits that it was not correct or proper on the part of the 3<sup>rd</sup> Respondent, who had passed Annexure-P/2 order, particularly, when the issue is pending before the Arbitration Tribunal. It is also pointed out that the delay in execution of the work was not attributable to the Petitioner and that the circumstances under which it came to be delayed has been explained by the Petitioner by filing a representation before the competent authority, which however has been ignored while passing the order under challenge.
4. The above version is sought to be rebutted by the learned Additional Advocate General by pointing out that the proceedings have been finalized by the 3<sup>rd</sup> Respondent taking note of the serious lapses and shortcomings on

the part of the Petitioner, who admittedly was given the time extended once, as per the proceedings issued by the concerned authorities. It is stated that the issue has been considered and finalized by the said Respondent in conformity with the relevant provisions of law and also the terms of the tender. If the Petitioner is aggrieved of the course pursued, he is having a remedy by Arbitration, invoking the relevant provisions in the Arbitration Agreement. The Petitioner is very well aware of the same, he having already invoked the said remedy by approaching the Arbitration Tribunal, in connection with the earlier cause of action.

5. In the said circumstance, no interference is warranted. The writ petition fails. It is dismissed accordingly, without prejudice to the right of the Petitioner to move the Arbitration Tribunal in respect of Annexure-P/1 as well, if he is so advised.

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

Sd/-  
**(Goutam Bhaduri)**  
**Judge**