

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1608 of 2018

- M/s Mohan Poddar Engineers And Builders, A Partnership Firm Duly Registered Under The Relevant Provisions Of The Partnership Act, 1936 Having Its Office At A / 406, Crystal Arcade, Shankar Nagar, Raipur Chhattisgarh and Acting In The Premises Through Its Power Of Attorney Holder Shri Ashish Kedia, Son Of Late Ashok Kedia, Aged About 35 Years, Resident Of Shastri Chowk, Ward No. 8, Akaltara, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary, Department of Public Works, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. The Chief Engineering Public Works Department, Raipur., District : Raipur, Chhattisgarh
3. The Superintending Engineer, Public Works Department, Raipur., District : Raipur, Chhattisgarh
4. The Executive Engineer, Public Works Department, Division No. 3, Raipur., District : Raipur, Chhattisgarh
5. The Secretary Cultural Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
6. Hdfc Bank Through its Branch Manager Sunder Nagar Branch, Raipur District : Raipur, Chhattisgarh

-----Respondents

For Petitioner : Shri Vivek Chopda, Advocate

For Respondents/State : Shri Shailendra Dubey, Additional
Advocate General

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

Per PR Ramachandra Menon,CJ

16.07.2019

1. Heard.
2. The petitioner has moved this Court with the following prayers :

“10.1 This Hon'ble court may be pleased to call for the records from the court below concerned pertaining to the case of the petitioner for kind perusal.

10.2 This Hon'ble court may be pleased to quash the impugned orders dated 18.05.2018 received by the petitioner on 31.05.2018 by email passed by the respondent No.4 being passed without giving any opportunity of hearing and without there being any breach of contract by the petitioner.

10.3 This Hon'ble court may be pleased to pass an order directing the respondent State authorities to appropriately compensate the petitioner for the illegal acts committed by them in the facts and circumstances of the case in the interest of justice.

10.4 Cost of the petition may also be awarded.

10.5 Any other writs and directions that may be deemed fit and just in the facts and circumstances of the case.”

3. A detailed reply has been filed on the part of the State referring to the principles of *res judicata* and also 'constructive *res judicata*' and the verdicts passed by the Apex Court in **Naresh Shridhar Mirjekar Vs State of Maharashtra** reported in AIR 1967 SC 1 and also in **Union of India Vs Major SP Sharma and others** reported in 2014 (6) SCC 351 contending that the Writ Petition is not maintainable. It is also pointed out that the petitioner had already approached this Court by filing a Writ Petition challenging the course and proceedings where interference was declined as per Annexure-P14 Order dated 06.12.2017 relegating the petitioner to pursue other appropriate remedy in view of the Arbitration Clause in existence and hence that the present Writ Petition is an abuse of the process of this Court.

4. When the matter is taken up for consideration, the learned counsel for the petitioner seeks for permission to withdraw the petition.
5. Permission is granted. Writ Petition is dismissed as withdrawn.
6. Whatever benefit is flowing from Annexure- P14, will stand intact.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

padma