

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 1893 of 2019

- M/s MBL Infrastructure Limited Through Its Authorized Signatory - Shri Darban Singh Nayal, Aged About 45 Years S/o Shri Ranjeet Singh Nayal, having Its Registered and Corporate Office at Baani Corporate One 308, 3rd floor, Plot No. 5, Commercial District Centre, Jasola, New Delhi, 110025.

---- Petitioner

Versus

1. State of Chhattisgarh Through the Chief Secretary, Government Of Chhattisgarh, Mahanadi Bhawan, New Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. Naya Raipur Development Authority(Now Known As Atal Nagar Development Authority) Through Its Chairman, having Its Office At Composite Building, North Block, Sector -19 Atal Nagar, New Raipur Chhattisgarh.
3. Chief Engineer Naya Raipur, Development Authority (Now Known as Atal Nagar, Development Authority), Composite Building, North Block Sector-19, Atal Nagar, New Raipur Chhattisgarh.

---- Respondents

For Petitioner	:-	Shri Sharad Mishra, Advocate
For Respondent-State	:-	Shri Rahul Jha, G.A.
For Respondent No.2	:-	Shri Anumeh Shrivastava

Order On Board By**Hon'ble Justice Shri Prashant Kumar Mishra****17/06/2019**

1. Learned counsel for the petitioner is permitted to amend the relief clause for challenging the order Annexure P-4 dated 02.04.2019 by which the reference under Section 7 of the Chhattisgarh Madhyastham Adhikaran Adhiniyam, 1983 (in short 'Adhiniyam, 1983'), has been rejected for want of Court fee.
2. Petitioner moved a reference under Section 7 of the Chhattisgarh Madhyastham Adhikaran Adhiniyam, 1983, for adjudication of dispute arising out of a works contract. However, petitioner did not submit the requisite Court fee along with the memo of reference and he failed to deposit the same after several opportunities allowed by the Tribunal, therefore, the Tribunal rejected the reference vide its order dated 02.04.2019. Subsequently, petitioner moved an application before the Tribunal on 02.04.2019 itself along with the requisite Court fee, however, the Tribunal refused to entertain the application for the reason that the reference has already been rejected and the Tribunal is not empowered to recall or set aside the said order by invoking inherent power under Section 17A.

3. Learned counsel for the petitioner would submit that the order rejecting reference is not award, therefore, the same is not revisable under Section 19 of the Adhiniyam, 1983 and the only remedy available to the petitioner is to move under Article 226 of the Constitution of India.
4. Section 16 of the Adhiniyam, 1983, speaks about the award passed by the Tribunal after recording evidence, if necessary and after perusing material on record and on affording the opportunity to parties to submit their arguments and the same also includes an interim award. The order dated 02.04.2019 was not passed on merits upon adjudication after recording the evidence and hearing the parties. It is an order passed by the Tribunal invoking Regulation 51(c) of the Chhattisgarh Madhyastham Adhikaran Regulation, 1985, therefore, the petitioner does not have any internal remedy under the Adhiniyam. Likewise, the Tribunal has rightly observed that once reference application is rejected the Tribunal is powerless to invoke its inherent powers to recall an order. The only remedy available to the petitioner is to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.
5. As of now, the petitioner has already paid the entire Court fee of Rs.16,63,086/-, therefore, he appears to be interested

in contesting the reference on merits. In this view of the matter, interest of justice would be served if the orders dated 02.04.2019 and 04.04.2019 passed by the Tribunal are set aside and the matter is remitted back to the Tribunal for deciding the reference application on merits.

6. Accordingly, both the orders are set aside and the matter is remitted back to the Tribunal for decision on merits.
7. In the result, the petition is allowed to the extent indicated above.

Sd/-
(Prashant Kumar Mishra)
Judge

Ankit