

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2433 of 2019

- M/s Shankara Enterprises Through Partner- Harihar Upadhyay, S/o Shri Parmanand Upadhyay, Aged About 29 Years R/o Main Road Sarafa Line, Kawardha, P.S. Kawardha, District- Kawardha, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Mahanadi Bhawan, Mantralaya Atal Nagar, District- Raipur, Chhattisgarh
2. The Chief Engineer Rural Engineering Service, Vikas Bhawan, Civil Line, Raipur, Chhattisgarh
3. The Superintending Engineer Rural Engineering Service, Vikas Bhawan, Civil Line, Raipur, Chhattisgarh
4. Chief Executive Officer Zila Panchayat District Kabirdham, Chhattisgarh
5. Chief Executive Officer Janpad Panchayat, Kawardha, Chhattisgarh
6. The Collector Cum President Zila Nirman Samittee Rural Development Division CGRRDA, District- Kabirdham, Chhattisgarh
7. M.M. Shah (the then Executive Engineer Cum Secretary) Rural Development Division, Chhattisgarh Rural Road Development Abhikaran, Kawardha, Division- Kawardha, District- Kawardha, Chhattisgarh

-----Respondents

For Petitioner : Shri Apoorva Tripathi, Advocate
For Respondents/State : Shri Gagan Tiwari, Dy GA

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

Per PR Ramachandra Menon,CJ

14.08.2019

1. The petitioner has moved this Court for the following prayers:

“Relief sought(s)

May, this Hon'ble Court be pleased to call for the records of the case pertaining to the petitioner from the respondents for its kind perusal.

A. May this Hon'ble court be pleased to set-aside the impugned order of termination of the work agreement dated 16.05.2019 (Annexure P-1).

B. May this Hon'ble court be pleased to direct the respondent authorities to not float or issue any NIT or issue any work with respect to the instant contract.

C. May this Hon'ble Court be pleased to direct the Superintending Engineer to decide the reference petition moved by the petitioner after providing him due opportunity of hearing, via a well-reasoned order.

D. Any other relief which this Hon'ble Court may deem fit in the facts & circumstances of case.

E. Cost of the petition may also be awarded."

2. Heard learned counsel for the petitioner as well as the learned counsel representing the State.

3. IA- 3 of 2019, an application for amendment is allowed as not opposed and the Registry shall carry out the necessary amendment.

4. The grievance is mainly with regard to the termination of the contract awarded to the petitioner as per Annexure P/1 dated 16.05.2019. When the matter came up for consideration before this Court on the last occasion, it was pointed out that the petitioner was having an alternative remedy by virtue of the terms of the tender and agreement in this regard.

5. The learned counsel for the petitioner submits that the matter has already been taken up before the Superintending Engineer, who is the competent authority as per Clause-28 of the NIT (Notice Inviting Tender). But it was submitted across the bar on 07.08.2019 by the learned counsel

representing the State that, pursuant to a supplementary agreement executed, the power and authority to deal with the disputes of this nature stands conferred upon the District Projects Committee, headed by the District Collector (for short, 'the Committee') and this aspect had already been brought to the notice of the Superintending Engineer. It was in the said circumstance, that instructions were sought to be obtained as to the stage of the proceedings.

6. Today, when the matter is taken up for consideration, the learned counsel representing the State submits that, pursuant to the proceedings filed by the petitioner before the Superintending Engineer, the statements were recorded on 24.07.2017; but on bringing the specific aspect as to the competent authority to deal with the matter, an order was passed by the Superintending Engineer on 07.08.2019, whereby the appeal preferred by the petitioner was dismissed without prejudice to rights and liberty of the petitioner to move the competent authority in this regard.

7. The learned State counsel submits that, if the petitioner files a proper proceeding in terms of the above provision before the District Projects Committee, headed by the District Collector, it will be considered and appropriate orders will be passed in accordance with law and, of course, after affording opportunity of hearing to the petitioner.

8. In the above circumstance, the petitioner is set at liberty to file a proper proceeding before the 'Committee' within three weeks; upon which the same shall be considered and appropriate orders shall be passed with

regard to the grievance projected by him within a further time limit of 'four weeks' thereafter, after hearing the petitioner.

9. In view of the submission made across the Bar that no new tender has been issued so far, the position as on date shall continue till final orders are passed by the Committee as afore said.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

padma