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HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 97 of 2015**

- M/s Radheshyam Agrawal a Registered Partnership Firm, Through Its Partner Shri Sanjay Agrawal, Aged About 40 Years, S/o Radheshyam Agrawal, R/o Heerapur Road, Near Chhattisgarh Public School, Tatibandh, Raipur, District- Raipur, ChhattisgarhApplicant.

----Petitioner/ Applicant**Versus**

1. State Of Chhattisgarh, Through Secretary, Public Works Department, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh.
2. The Executive Engineer, Public Works Division (B&R), Vidhan Sabha Division, Raipur, District- Raipur, Chhattisgarh.

---- Respondents/Non-applicants

For Applicant:	Shri Ashok Mishra, Advocate.
For State/Non-applicants:	Shri Vimlesh Bajpai, G.A.

Single Bench:Hon'ble Shri Sanjay Agrawal, J**Order On Board****16.07.2019**

1. This Revision Petition has been preferred by the Petitioner under Section 19 of C.G. Madhyastham Adhikaran Adhiniyam, 1983 (hereinafter referred to as 'the Act, 1983') questioning the propriety of the order dated 30.06.2015 passed by the Chhattisgarh Arbitration Tribunal, Raipur in Reference Petition No.14/2014.

2. Shri Mishra, learned counsel for the Petitioner submits that the order impugned has been passed without considering the direction issued by this Court in Writ Petition(C) No. 1271/2014, particularly, paragraph 6 of it, therefore, deserves to be set aside.

3. On the other hand, Shri Vimlesh Bajpai, learned Government Advocate for the State/Respondents submits that a bare perusal of

paragraph 6 of the order dated 14.07.2014 passed in the said Writ Petition, it is evident that this Court has observed that if the Applicant makes a request for reference within two weeks from the said date then only the Respondent State Authorities are expected to act in accordance with law. However, instead of pursuing the said direction, the Petitioner has approached the Arbitration Tribunal and as such, the Tribunal has rightly dismissed the said reference vide its order impugned dated 30.06.2015.

4. I have heard learned Counsel for the parties and perused the entire record carefully.

5. From perusal of the record, it appears that a notice/order dated 19.06.2014 passed by the Public Works Department, Raipur, whereby, the Petitioner was directed to deposit a sum of Rs.27,68,828/- being the balance amount for the work not executed as required by the contract, was questioned before this Court in Writ Petition being W.P.(C) No. 1271/2014. In the said Petition and by considering the arbitration clause 28 contained in the Agreement dated 27.02.2009, it was disposed of while observing at paragraph 6 as under:-

“6. Considering that the respondent State Government is expected to act with fairness and reasonableness only if the applicant makes a request for reference within two weeks from today, the authorities will act in accordance with law rather than enforcing recovery making any request for reference futile.”

6. Instead of following the aforesaid direction, the Petitioner has approached the Arbitration Tribunal without availing the said arbitration clause and the Tribunal has, therefore, not committed any illegality in rejecting the said Reference Petition for non-compliance of the aforesaid

direction.

7. Considering the aforesaid facts and circumstances of the case and considering further in non-compliance of the aforesaid direction, I am not inclined to entertain this Petition.

8. The petition being devoid of merits is hereby dismissed. No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Nikita