

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 97 of 2019**

M/s Shiv Shakti Constructions, Through : Partner – Subhash Tripathi, S/o Late Muralidhar Tripathi, aged about 55 years, Resident of Namna Kala, Ring Road, Ambikapur, P.S. - Gandhinagar, District Surguja (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Public Health and Family Welfare Department, Mahanadi Bhawan, New Mantralay, Atal Nagar, District – Raipur (C.G.)
2. The Managing Director, Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District Raipur (C.G.)
3. The Superintending Engineer Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District – Raipur (C.G.)
4. The Executive Engineer, Chhattisgarh Medical Services Corporation Limited, House No. 407, Ward No. 13, Near Nawapara Gramin Bank, Ambikapur, District – Surguja (C.G.)
5. Vikas Mittal, Golkul Gali, Bhaiyathan Road, Surajpur (C.G.)

Writ Petition (C) No. 106 of 2019

M/s Shiv Shakti Constructions, Through : Partner – Subhash Tripathi, S/o Late Muralidhar Tripathi, aged about 55 years, Resident of Namna Kala, Ring Road, Ambikapur, P.S. - Gandhinagar, District Surguja (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Public Health and Family Welfare Department, Mahanadi Bhawan, New Mantralay, Atal Nagar, District – Raipur (C.G.)
2. The Managing Director, Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District Raipur (C.G.)
3. The Superintending Engineer Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District – Raipur (C.G.)
4. The Executive Engineer, Chhattisgarh Medical Services Corporation Limited, House No. 407, Ward No. 13, Near Nawapara Gramin Bank, Ambikapur, District – Surguja (C.G.)
5. M/s Ganesh Buildcon, Shop No. 26, New Bus Stand Shaping Complex Surajpur, Distt : Surajpur (C.G.)

---- Respondents

Writ Petition (C) No. 06 of 2019

M/s Shiv Shakti Constructions, Through : Partner – Subhash Tripathi, S/o Late Muralidhar Tripathi, aged about 55 years, Resident of Namna Kala, Ring Road, Ambikapur, P.S. - Gandhinagar, District Surguja (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Public Health and Family Welfare Department, Mahanadi Bhawan, New Mantralay, Atal Nagar, District – Raipur (C.G.)
2. The Managing Director, Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District Raipur (C.G.)
3. The Superintending Engineer Chhattisgarh Medical Services Corporation Limited, 3rd Floor, Govind Sarang Business Parisar, New Rajendra Nagar, District – Raipur (C.G.)
4. The Executive Engineer, Chhattisgarh Medical Services Corporation Limited, House No. 407, Ward No. 13, Near Nawapara Gramin Bank, Ambikapur, District – Surguja (C.G.)
5. M/s Ganesh Buildcon, Shop No. 26, New Bus Stand Shaping Complex Surajpur, Distt : Surajpur (C.G.)

---- Respondents

For Petitioner	:	Mr. Sunil Tripathi, Advocate.
For Respondent No. 1	:	Mr. Siddharth Dubey, Dy. Govt. Advocate.
For Respondents No. 2 to 4	:	Mr. C.J. K. Rao, Advocate.
For Respondent No. 5	:	Mr. Gyan Prakash Shukla, Advocate.
For Respondent No. 5/State	:	Mr. Gagan Tiwari, Deputy Govt. Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, J.

Judgment on Board

Sanjay K. Agrawal, J.

26/06/2019

- (1) This order will govern the disposal of Writ Petition (C) Nos. 97/2019, 106/2019 and 6/2019.

[For the sake of convenience, W.P. (C) No. 97/2019 would be taken up as lead case]

- (2) The batch of writ petitions has been filed by the petitioner questioning the order

passed by respondent No. 4 vide Annexures P-1 & P-2. This Court while entertaining the writ petitions on 15.01.2019 directed that site allotment to the petitioner shall not be disturbed nor handed over to any third party. It is the case of the petitioner as well as respondents that by virtue of the interim order dated 15.01.2019, work in question, which was actually and originally allotted to the petitioner, has already been completed i.e. construction of 100 bedded hospital building and the said building has already been inaugurated and possession of the same is with the State Government.

(3) Learned counsel appearing for the petitioner would submit that the other constructions, which is left to be constructed, is the postmortem building, wash room, canteen etc., the same have ordered to be constructed and some part of the building has already been constructed and, therefore, he be allowed to construct the remaining area whereas Shri C.J.K. Rao, learned counsel for the respondents No. 2 to 4 would submit that the aforesaid work has already been awarded to the other persons, which they are constructing. However, Shri Gyan Prakash Shukla, learned counsel appearing for respondent No. 5 would submit that aforesaid work has already been completed by respondent No. 5 and payment has also been released in his favour.

(4) We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(5) It is not in dispute that construction of 100 bedded hospital has been allowed to be constructed pursuant to the order of this Court and which has already been constructed and inaugurated & possession has been handed over to the State. Other dispute with regard to the construction of three other parts of the building, according to the petitioner he is entitled to construct that part, whereas according to respondents No. 2 to 4, it has already been awarded to respondent No. 5 for construction.

(6) In view of rival submissions made hereinabove, we are not dwelling upon the said

dispute of remaining part of building as it is the stand of the respondents No. 2 to 4 that the said building, which has already been awarded to respondent No. 5, however, the said dispute being arbitrable under Clause 28 of the Contract, the petitioner is at liberty to invoke arbitration clause in accordance with law.

(7) Coming to the second relief claimed by the petitioner with regard to payment of the petitioner, the petitioner is at liberty to claim admitted dues against construction of 100 bedded hospital, which the respondents No. 2 to 4 shall consider in accordance with law, if claim is made in that behalf

(8) With the aforesaid observations, all the three writ petitions stand finally disposed of.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

