

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Appeal No. 14 of 2019

1. State Of Chhattisgarh Through Secretary, Department Of Public Health Engineering, Mantralaya, Naya Raipur, P.S. Rakhi, District- Raipur, Chhattisgarh.
2. The Chief Engineer Public Health Engineering Department, Bilaspur Circle, Bilaspur District Bilaspur, Chhattisgarh.
3. The Superintending Engineer Public Health Engineering Public Health Engineering Department, Bilaspur, Division, District- Bilaspur, Chhattisgarh.
4. The Executive Engineer Public Health Engineering Department, Bilaspur Division Bilaspur, District- Bilaspur, Chhattisgarh.
5. The Sub Divisional Officer Public Health Engineering Department, Bilaspur Division Bilaspur, Chhattisgarh.

---- Appellants

Versus

Rajesh Kumar Pathak S/o Late B.P. Pathak Aged About 53 Years R/o Pragya Kunj, Jabada Para, New Sarkanda, P.S. Sarkanda, Tahsil And District- Bilaspur, Chhattisgarh.

---- Respondent

For Appellants/State	: Shri Rahul Jha, Government Advocate.
For Respondent	: Shri Dashrath Prajapati, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

10/01/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Delay of 48 days in preferring the appeal is condoned for the reasons indicated in the I.A. No.01 of 2019. The appeal is thereafter heard on merits.
2. Heard counsel for the parties.
3. The State has filed the present appeal against the order dated 12.09.2018 wherein the writ application for the private Respondent was allowed and the steps

taken by the State authorities to recover certain outstanding dues under one contract from yet another subsisting contract or completed contract was held to be illegal keeping in mind the Division Bench decision of the State of Chhattisgarh in the cases of ***Macadum Makers v. State of Chhattisgarh and others*** reported in ***AIR 2012 Chh 123*** as well as ***M/s Shree Constructions v. State of Chhattisgarh and others*** passed in ***Writ Petition (C) No.5717 of 2011 decided on 10.04.2012***. The ratio thereof have been reproduced in the impugned order.

4. Since it is admitted position that the recovery was sought to be made from the Respondent from the bill of a different contract other than that of a contract for which the so-called excess payment has been made, the occasion to grant relief arose.

5. The Court keeping in mind the binding precedent, rightly allowed the writ application. In our opinion, the learned Single Judge has committed no error if he has relied on the ratio by the Division Bench decision noted above on such issue.

6. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE