

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCC No. 167 of 2020

1. MAK Engineering Industries Limited, A Company Incorporated Under The Provisions of The Companies Act, 1956, Having Its Registered Office At 8/1 A, Middleton Row, 3rd Floor, Kolkata - 700 071

---- Applicant

Versus

1. South East Central Railway Through The General Manager, South East Central Railway Bilaspur .(Respondents)
2. Chief Administrative Officer (Con) South East Central Railway, Railway Campus, Bilaspur
3. Deputy Chief Engineer / Con/ T And S South East Central Railway, Railway Campus Bilaspur...(Respondents)

---Respondents

For Applicant	:	Mr. Ali Asgar, Advocate
For S.E.C.R./Respondents	:	Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

18.02.2020

1. The present MCC has been filed seeking modification of the Order dated 20.12.2019 passed in Arbitration Appeal No. 61 of 2019.
2. The modification now that the petitioner seeks is the subsequent request that the petitioner intends to make ie., for furnishing bank guarantee to the extent of liquidated damage and respondents be constrained to recover the said amount till the arbitration proceedings are pending.

3. At the outset, this Court finds that an MCC filed for seeking modification of the order would be permissible only to the extent of a clerical or an arithmetical mistake committed in the course of passing an order. The application for modification cannot be stretched to the extent of incorporating any additional observations or direction in the original order.
4. The order passed by this Court on 20.12.2019 is one on merits on an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 which the appellant has preferred against the order dated 28.11.2019 passed by the Learned District Judge, Bilaspur in M.J.C. Civil No./285 of 2019. Once when this has Court expressly rejected the appeal and the petitioner not able to show a clerical or an arithmetical mistake committed, this Court does not find any strong case made out by the applicants for modification of the aforesaid order dated 20.12.2019 or grant of the relief that the petitioner is seeking which is one more of inter-se dispute between the petitioner and the respondent no. 4. The petitioner would be at liberty to approach the department by making a suitable correspondence in this regard. The present MCC as such cannot be entertained for making any modification of the order to the aforesaid extent.
5. With the aforesaid observations, the present MCC accordingly stands rejected.

**Sd/-
(P. Sam Koshy)
Judge**