

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 853 of 2021

Ajay Agencies Through Its Sole Proprietor Sanjay Agrawal, S/o. Kapur Chand Agrawal, Aged About 49 Years, R/o. Ward No. 15 Main Road Janjgir District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Water Resources Department, New Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh.
2. Engineer In Chief, Water Resources Department, Sector 19, Shivnath Bhawan, Atal Nagar , Raipur Chhattisgarh.
3. Chief Engineer, Water Resources Department, Minimata Hasdeo Bango Project Bilaspur Chhattisgarh.
4. Superintending Engineer, Water Resources Department, Hasdeo Project, Circle Rampur, Korba, District Korba Chhattisgarh.
5. Executive Engineer, Water Resources Department, Hasdeo Canal Division Janjgir, District Janjgir-Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Sushobhit Singh, Advocate
For State/Respondents	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18.02.2021

Heard

1. Learned counsel for the petitioner would submit that the petitioner entered into a contract with the respondents and according to the contract agreement if any dispute arise with respect to the contract initially the matter is to be referred to the Superintending Engineer as per Clause 4.3.29 and thereafter the Superintending Engineer was required to decide the same within 15 days and having failed to do so, the appeal was to be made before the Chief Engineer who was also required to decide the appeal within 30 days. Counsel for the petitioner further submits that the petitioner has made a reference to the Superintending Engineer on 22.10.2020 by Annexure P-4 along with the Annexures and

thereafter no decision on the application was arrived at by the Superintending Engineer, as such, the petitioner preferred an appeal by Annexure P-5 on 26.11.2020 before the Chief Engineer, which is pending. The Chief Engineer is required to decide the same and give his decision within a period of 30 days and thereafter the matter can be referred to the Arbitration Tribunal. Counsel further submits that the Chief Engineer has not decided the case, therefore, the petitioner cannot approach to the Arbitration Tribunal as the cause of action has not accrued.

2. Perusal of Clause 4.3.29 of the agreement would show that the petitioner in case of any dispute first the reference has to be made to the Superintending Engineer and he was required to decide the same within 15 days and having failed to do so, an appeal is to be filed before the Chief Engineer and the Chief Engineer is required to give his decision within 30 days, or on such mutual agreed period. Perused Annexure P-4, it appears that initially the reference was made to the Superintending Engineer to decide the same, but having not decided, thereafter, the appeal was preferred by Annexure P-5 on 26.11.2020 before the Chief Engineer. Since the appeal has not been decided till date, therefore, as per clause 4.3.29 of the agreement, the Chief Engineer is directed to decide the appeal preferred by the petitioner within a period of 30 days from the date of receipt of a copy of this order.
3. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Aks