

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1889 of 2021**

M/s Verity India Through Its Proprietor Smt. Aradhna Tiwari W/o Shri Ajoy Tiwari 52 Years Plot No. 120, Kosabadi, Korba District Korba Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Public Works Department, Mantralaya , Atal Nagar , Raipur District Raipur Chhattisgarh.
2. The Executive Engineer Public Works Department (B And R) Division Ambikapur , District Surguja Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Prafull N. Bharat, Senior Counsel.
For Respondents	: Mr. Vikram Sharma, Deputy Government Advocate.

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Shri N. K. Chandravanshi, Judge****Order on Board****Per Arup Kumar Goswami, Chief Justice****03.12.2021**

Heard Mr. Prafull N. Bharat, learned senior counsel for the petitioner.
Also heard Mr. Vikram Sharma, learned Deputy Government Advocate appearing for the respondents.

2. This writ petition is filed praying for the following reliefs:

“10.1 To call for the records of the case for the kind
perusal of this Hon'ble Court.

10.2 To issue an appropriate writ or order and declare that the order dated 30.12.2020 (Annexure P-1) and order dated 22.01.2021 (Annexure P-2) are illegal, bad in law.

10.3 To issue an appropriate writ or order and quash the order dated 30.12.2020 (Annexure P-1) and order dated 22.01.2021 (Annexure P-2)

10.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”

3. The petitioner was awarded the work for construction of Engineering College Block 1 Surguja University at Nehru Nagar, Digma, Ambikapur, District Surguja. By the order dated 30.12.2020, the agreement executed between the petitioner and respondents has been rescinded with a further direction that remaining un-executed work will be given to another agency to complete the same in which case, as per Clause 3 of the agreement, Earnest Money Deposit (EMD) and Security Deposit (SD) would stand forfeited. It is also indicated that 10% of the balance work could be adjusted / recovered from the petitioner. Order dated 22.01.2021 is a recovery notice in respect of balance work.

4. The order of the Court dated 09.04.2021 indicates that Mr. Sharma had submitted that the petitioner is having efficacious alternative remedy under Clause 21 (should have been 28) of the agreement and that the petitioner had already availed the same.

5. Drawing attention of the Court to the application filed on 17.06.2021 by the petitioner, which is registered as I.A. No. 02 of 2021, Mr. Bharat submits that by letter dated 09.04.2021, a final opportunity was granted to the petitioner

to appear before the Superintending Engineer alongwith all documents on 26.04.2021, which was, however, dispatched by the respondents only on 02.06.2021 and therefore, the same was a back-dated letter. He submits that, at any rate, when the letter had been dispatched on 02.06.2021 while fixing the date of hearing on 26.04.2021, the petitioner could not have attended the hearing on 26.04.2021. It is submitted by Mr. Bharat that such a letter was issued in response to the letter of petitioner dated 12.02.2012 invoking arbitration clause.

6. He further submits that this petition may be disposed of by fixing a fresh date of hearing before the Superintending Engineer of the Public Works Department, Division-Ambikapur, so as to enable the petitioner to pursue remedy as available under clause 28.

7. Mr. Sharma has no objection to the prayer made for fixing a fresh date of hearing. It is also submitted by him that the work which was earlier entrusted to the petitioner had already been awarded to one Rajesh Pathak on 09.07.2021, which fact was already mentioned in the return filed by the State on 30.07.2021.

8. Having regard to the submissions of the learned counsel for the parties, this writ petition is disposed of providing that the petitioner will appear before the Superintending Engineer of the Public Works Department, Division-Ambikapur on 20.12.2021 for the purpose of hearing.

9. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(N. K. Chandravanshi)
Judge