

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case (C) No. 582 of 2021**

- M/s Birmiwal Steels Pvt. Ltd. Through Its Director, Block No. 6, Sarora, Ring Road No. 2, P. S. Urla, Raipur District Raipur Chhattisgarh Through Its Authorized Signatory Shri Vishal Gupta.

---- Petitioner**Versus**

1. Shri M. H. Prasad Chief Engineer (Commercial) Chhattisgarh State Power Distribution Company Limited, Daganiya Raipur Chhattisgarh.
2. Shri A. K. Lakhera Superintendent Engineer (City Division) Chhattisgarh State Power Distribution Company Limited, Daganiya Raipur Chhattisgarh
3. Shri Harsh Gautam Managing Director, Chhattisgarh State Power Distribution Company Limited, Daganiya Raipur Chhattisgarh (Earlier CSPDCL Was Represented By Secretary And Now By Its Managing Director)
4. Shri Ankit Anand Chairman, Chhattisgarh State Power Distribution Company Limited, Daganiya Raipur Chhattisgarh
5. Shri C. H. Markam Superintending Engineer (Kanker Division) Superintending Engineer (Earlier City Division) Chhattisgarh State Power Distribution Company Limited, Daganiya Raipur Chhattisgarh.

---- Respondents

For Petitioner:

: Shri Kashif Shakeel, Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order on board****24.09.2021**

1. This petition has been filed by the petitioner-M/s Birmiwal Steels Pvt. Ltd, seeking initiation of contempt proceedings for non-compliance of the order dated 19.12.2007 passed by this Court in W.P.(C) No.4409/2007, whereby the following observation was made:-

“Learned counsel for the respondents submits that he could not file the response, however, he prays for and is granted a day's time to file the counter affidavit. List the case in the first week of January, 2008. Meanwhile, the petitioner may also file

rejoinder affidavit. Keeping in mind the balance of convenience, the recovery proceedings shall remain stayed with the condition as agreed on behalf of the petitioners that the money shall be adjusted along with the interest at Bank rate in case writ petition fails.”

2. According to the petitioner, since the aforesaid direction has not been complied with despite the disposal of the said writ petition on 27.11.2019, the Respondents are therefore liable to be punished for its non-compliance.
3. From perusal of the record, it, however, appears that an order was passed on 29.05.2007 (Annexure C-3) in Case No. 16 of 2006 by the Electricity Ombudsman, whereby the claim of the petitioner was allowed by granting the benefit of relaxation under clause 23 (a) of the High Tension agreement, which was entered into between the parties in the matter of supply of electricity.
4. The aforesaid order was put in question before this Court in writ, being W.P.(C) No. 4409/2007, whereby as an interim measure, the above mentioned direction contained in the order dated 19.12.2007 (Annexure C-1) was issued. It appears further that the said writ petition so filed was ultimately decided vide order dated 27.11.2019 (Annexure C-5) affirming the said order dated 29.05.2007 (Annexure C-3) as passed by the Electricity Ombudsman in Case No.16 of 2006. After the disposal of the said writ petition, a representation (Annexure C-6) was made by the Petitioner-M/s Birmiwal Steel Pvt. Ltd on 13.07.2020 under Sections 142 and 146 of the Electricity Act, 2003 before the Chhattisgarh Electricity Regulatory Commission registered as Case No.62/2020 for non-compliance of the said order dated 29.05.2007(Annexure C-3). It, therefore, appears that despite the

disposal of the said writ petition, no grievance with regard to the order dated 19.12.2007 (Annexure C-1) was raised and the said representation (Annexure C-6) was made as the Respondents have failed to comply with the order dated 29.05.2007. Be that as it may, the said representation was dismissed by the said Authority vide order dated 23.03.2021 (Annexure C-8) holding it to be beyond the purview of Section 142 of the Electricity Act, 2003 and, only after the dismissal of the said representation as such, the instant petition seeking initiation of contempt proceedings has been filed instead of questioning the said order i.e., order dated 23.03.2021 (Annexure C-8) before the superior Authority. In any case, the petition as framed and filed on 19.07.2021, much beyond the prescribed period of one year after the dismissal of the said writ petition on 27.11.2019, cannot be held to be filed in time.

5. Consequently, I do not find any substance in this petition. The petition is accordingly dismissed at motion hearing stage itself.

No order as to costs.

Sd/-
(Sanjay S.Agrawal)
JUDGE

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M/s Birniwal Steels Pvt. Ltd. **Versus** Shri M. H. Prasad

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24.09.2021	Shri Kashif Shakeel, counsel for the Appellant. Heard finally. Order dictated in open Court. Signed and dated Separately. Sd/- (Sanjay S.Agrawal) JUDGE