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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1937 of 2020**

Gannon Dunkerley & Co. Ltd. Through Its COO., Ravindra Kumar S/o Shri Shayam Singh, Aged About- 51 Years, R/o 603, Plot B-17, Marvel Homes Apartment Sector 61, Noida, District- Ghatam Bhudh Nagar Up Office At- B-228, Okhla Industrial Area Phase-1, New Delhi- 110020

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Additional Chief Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. Managing Director Chhattisgarh Road Development Corporation Limited (In Short CGRDC), Sirpur Bhawan Campus, Behind Akashwani, Civil Lines, Raipur, Raipur, Chhattisgarh 492001
3. Director General of Police Raipur, Chhattisgarh
4. Superintendent of Police District- Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Rahul Rawat, Shri Vikash Santu and Shri Sourabh Sharma, Advocate

For Respondent/State : Shri Vikram Sharma, Deputy Government Advocate

For Respondent No.2 : Shri Prateek Sharma, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****04.02.2021**

1. The Petitioner has moved this Court with the following prayers:

“10.1 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature & quashing the impugned orders dated **04.12.19, 04.01.2020 & 21.07.2020** passed by respondent no.2 (**ANN.P/5 & Ann.P/6**) or in alternative this Hon'ble High Court may kindly be pleased to remand back to authority concerned for fresh consideration in according to facts & circumstances of case.

10.2 That, this Hon'ble Court may kindly be pleased to issue in the nature of mandamus commanding and directing respondent 2 & 4 & 5 to passed the speaking order in the pending representations of petitioner & also the respondent no/5 may be lodged the FIR u/s CRPC against the responsible officer/accused person, after giving full opportunity of hearing to all concern & by fixing the time bound period i.e. 30 days;

10.3 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus commanding respondents no/1 & 4 may be directed to make the high level enquiry against the responsible officers with respect to agreement & also other issues so responsible officers would require to pay the requisite cost etc. as Hon'ble court deem to proper & fit same shall be imposed to such officer;”

2. Heard the learned counsel for the Petitioner, the learned counsel representing the State as well as the learned counsel appearing for the 2nd Respondent, who is stated to be the contesting party.
3. The learned counsel for the Petitioner submits that the contract awarded to the Petitioner has been terminated absolutely without any rhyme or reason and also without considering the reason pointed out from the part of the Petitioner with reference to the pendency of Writ Petition (PIL) No.33 of 2012 and the interim order of stay granted by this Court on 22.08.2017. The said Public Interest Litigation came to be finalized as per order dated 27.08.2017, giving appropriate directions and in the said circumstance, the contention of the Petitioner was that the time to complete the contract (550 days) ought to have been calculated with effect from the date of finalization of the writ petition and not from

03.06.2017 taken as an appointment date. The contract came to be terminated after issuing Annexure P/5 show cause notice dated 04.12.2019, vide Annexure P/6 dated 04.01.2020; against which a representation was preferred. The said representation (Annexure P/7) was directed to be considered as per the order dated 17.06.2020 passed by this Court in Writ Petition (C) No.1235 of 2020, which came to be rejected as per order dated 21.07.2020 without assigning proper reasons and contrary to the law declared by the Apex Court in reported in **Kranti Associates Private Limited and Another v. Masood Ahmed Khan and Others** reported in **(2010) 9 SCC 496** (paragraph-46). It is stated that the Petitioner has already moved this Court by filing Writ Petition (C) No.1713 of 2020 with reference to the course and events and to cause an enquiry to be conducted in the matter.

4. The learned counsel representing the 2nd Respondent submits that the prayers raised in this writ petition and the prayers contained in pending writ petition i.e. Writ Petition (C) No.1713 of 2020 are substantially the same. This however is sought to be rebutted from the part of the Petitioner pointing out that, the show cause notice, the termination of the contract and the subsequent rejection of the representation have not been challenged in the other writ petition where the prayers are different. The said prayers are given below :

“10.1 That, this Hon'ble Court may be kindly be pleased to issue in the nature of mandamus commanding and directing respondents 1 to 3 to passed the speaking order in the pending representations of petitioner & also the respondents no/1 & 2 may be constituted the committee & conduct Physical Verification of **Two laning with hard shoulder of Chiphi –**

Rengakhar Salhewara Road Section from existing chainage KM 0.000 to Km. 60.826 (Design Chainage KM 0.000 to Km 60.765) in which issue the ROW clearness & truth can be ascertained after giving full opportunity of hearing to all concern & by fixing the time bound period i.e. 30 days;

10.2 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus commanding respondents no/1 & 2 may be directed to make the high level enquiry against the responsible officers in according to facts & circumstances of case;

10.3 Any other relief, which this Honourable Court may, deems fit and proper may kindly be granted.”

5. The learned counsel for the 2nd Respondent points out that the said writ petition was filed on 15.07.2020. If the Petitioner is aggrieved of any subsequent development, it was for the Petitioner to have caused it to be amended in accordance with law. The learned counsel submits that pursuant to further steps, fresh tender was floated, successful bidder was identified and the work was awarded on 06.01.2021. The said parties are not have been impleaded in the party array. It is also brought to the notice of this Court that there is an effective alternate remedy for the Petitioner and the writ petition itself is not maintainable, being a matter involving disputed questions of fact.
6. The learned counsel for the Petitioner seeks for permission to withdraw the writ petition without prejudice to the rights and liberties to pursue alternate remedy in accordance with law. We find it appropriate to grant the relief sought for in this regard.

7. In the said circumstances, the writ petition is dismissed as withdrawn with liberty to pursue other appropriate remedy in accordance with law before the appropriate forum. It is made clear that we have not considered the merits involved.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Anu