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**(2023) 03 CHH CK 0040**  
**In the Chhattisgarh High Court**  
**Case No : Writ Appeal No. 715 Of 2022**

State Of Chhattisgarh

APPELLANT

Vs

M/S N.C.C. Limited

RESPONDENT

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**Date of Decision :** 15-03-2023

**Acts Referred:**

**Citation :** (2023) 03 CHH CK 0040

**Hon'ble Judges :** Goutam Bhaduri, J;N.K. Chandravanshi, J

**Bench :** Division Bench

**Advocate :** Raghvendra Pradhan, B.P. Sharma, Hari Agrawal

**Final Decision :** Disposed Of

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## Judgement

1. Challenge in this writ appeal is to the order dated 16-11-2022 passed in WPC No.2833 of 2022 whereby the learned Single Judge has directed for refund of the security deposit to the respondent herein for work done towards construction of Saradih Barrage with Vertical Lift Gates and other Appurtenant works across Mahanadi River and construction of bridge including operation and maintenance for two years after completion in District Janjgir-Champa. Probable amount of work was Rs.37481.40 lacs.

2. According to the appellants/State, the date of construction was completed 18-7-2019 and thereafter for two years operation & maintenance was to be carried out. According to clause 4.39 of the agreement, refund of security deposit was required to be made after completion of work. Clause 4.39 is reads as under :

4.39 Refund of Security Deposit:-

The security deposit of the contractor shall not be refunded before the expiry of 24 (twenty four) months after issue of the certificate, final or otherwise, of completion of the Work or else, prior permission, of the Government of Chhattisgarh, Water Resources Department shall be obtained, and in no case it

shall be refunded before the successful commissioning trial and running & maintenance of the complete system.

3. It is the submission of the State that the completion of work includes operation & maintenance of two years which has come to an end on 18-7-2021 and thereafter the contractor shall be entitled for refund of security deposit after expiry of 24 months, which comes to 18-7-2023. Further submission of the State is that the learned Single Judge has not touched upon the issue when the work would be deemed to be completed instead has misinterpreted that the completion of work would be reckoned from 18-7-2021, therefore, the order impugned is required to be modified.

4. Learned counsel appearing for the respondents would submit that despite completion of entire work, the security amount was not returned. Learned counsel refers to ground 'G' of the memo of writ appeal and, without prejudice to the merits and rights of the respondents, would submit that according to the State, entitlement would be after 18-7-2023. He would submit that in terms of such admission this writ appeal may be disposed of accepting the submission of the State that the cut off date would be 18-7-2023 to claim refund of security deposit.

5. In view of the submission of the parties, it would be relevant to reproduce ground 'G' of the memo of writ appeal :

G. Because the terms of 2 years after successfully completion of operation and maintenance shall expire on 18-7-2023 and the appellants are entitled under the provisions of the agreement to retain the security deposit till 18-7-2023 which has been wrongly interpreted by the Hon'ble Single Bench and the Hon'ble Single Bench has gravely erred in issuing the order for refund of security deposit within a period of one month and that too imposing interest at the rate of 10% if not released within a period of 30 days.

6. Since it has been stated that entitlement of the respondents for refund of security deposit shall be considered after 18-7-2023, which the respondents accept without prejudice to their right, no issue is left for adjudication and it is observed that as per ground 'G' of the memo of writ appeal, the appellants/State shall be allowed to hold the security deposit till 18th July, 2023, in accordance with the terms of agreement.

7. With the aforesaid observations, the writ appeal stands disposed of.