

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.24233 of 2006

ORDER:

The petitioner was aggrieved by G.O.Ms.No.77, I & CAD (PW. Reforms) Department, dated 15.04.2006, to the extent it provided that it would be applicable only for future agreements and with prospective effect only. He sought a consequential direction to apply the modifications under the said G.O. with effect from 01.07.2003, being the date of issue of G.O.Ms.No.94, I & CAD (PW.COD) Department, and to direct the respondent authorities to refund the excess amount recovered from him towards seigniorage charges.

Sri Srimannarayana, learned counsel representing Sri P.Vinayaka Swamy, learned counsel for the petitioner, stated that the benefit of G.O.Ms.No.77 dated 15.04.2006 was extended to others similarly situated to the petitioner with retrospective effect and therefore the petitioner is also entitled to similar treatment. He placed before the Court a copy of G.O.Ms.No.100, Irrigation & CAD (PW: Reforms) Department, dated 21.08.2009, whereby the Government of Andhra Pradesh accepted the recommendations of the Advisory Committee and revised the modified seigniorage charges of Gravel/Morrum/Earth for 20 works executed in SRSP, NKLI, Suddalavagu and Peddegadda projects, indicated in the annexure appended to the said G.O.

It is relevant to note that the Chief Engineer (P) (A/c), Irrigation and CAD Department, Government of Andhra Pradesh, Kurnool, addressed letter dated 29.09.2011 to the Engineer-in-Chief (Projects-II), I & CAD Department, Hyderabad, referring to the work undertaken by the petitioner in relation to strengthening of Velugodu Balancing Reservoir and stating that the nature of work undertaken by the petitioner was similar to the works covered by G.O.Ms.No.100 dated 21.08.2009. This information was conveyed for the purpose of necessary action being taken. The Engineer-in-Chief (Irrigation), I &

CAD Department, Hyderabad, addressed letter dated 08.11.2011 to the Secretary to the Government, Irrigation and Command Area Development Department, Andhra Pradesh Secretariat, Hyderabad, referring to the information conveyed by the Chief Engineer concerned that the work undertaken by the petitioner was similar to the works covered by G.O.Ms.No.100 dated 21.08.2009 and recommending that the request of the petitioner and some others be considered in respect of Gravel/Morrum/Earth as the works and the issue were of similar nature.

Sri Srimannarayana, learned counsel, states that no action has been taken by the Government pursuant to the aforestated developments during the pendency of this writ petition.

Though the learned Assistant Government Pleader for Irrigation sought time to get instructions as regards the aforestated aspects, she was unable to do so.

The counter-affidavit filed by the Executive Engineer, Telugu Ganga Project, Division No.I, Velugodu, Kurnool District, is silent as to the aforestated aspects though it was filed only on 31.08.2015. As the record reflects that the Government deemed it appropriate to extend the benefit of G.O.Ms.No.77 dated 15.04.2006 to the contractors involved in as many as 20 works, though the said G.O. specifically stated that it would have only prospective effect, there is no reason as to why others who are identically situated to those covered by G.O.Ms.No.100 dated 21.08.2010 should be discriminated against. If, as a policy measure, the Government decided to give retrospective effect to the benefit conferred under G.O.Ms.No.77 dated 15.04.2006, it must necessarily do so with an even hand and cannot pick and choose on the basis of its own whims and fancies arbitrarily. The communications of the Irrigation Department authorities, referred to above, put it beyond doubt that the work undertaken by the petitioner was similar in nature to the works covered by G.O.Ms.No.100 dated 11.08.2009. The petitioner would therefore be entitled to have his claim considered for extending the said benefit to him also.

The writ petition is accordingly disposed of directing the 1st respondent to consider the recommendations made by the Engineer-in-Chief (Irrigation), I & CAD Department, Hyderabad, under letter dated 08.11.2011 and pass appropriate reasoned orders thereon in accordance with law insofar as the petitioner is concerned. This exercise shall be completed expeditiously and not later than four (4) weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:28.09.2015

GJ