

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos. 22740 OF 2011

ORDER:

The petitioner herein sought for a direction to the respondent-University to release the amounts withheld from the bill of the petitioner towards retention amount of 7.5% as security deposit and 1% of amount towards quality control retention amount, even after the expiry of the retention period.

Sri Venkateswara University had a Post Graduate Center at Kadapa. With a view to entrust construction of multi-storied buildings at that Post Graduate Centre, Kadapa, pre-qualification bids were invited and ultimately the petitioner has emerged as the best bidder, since, it not only satisfied all the pre-qualification bid requirements, but also came up with a competitive offer. Accordingly, an agreement was entered into on 08.05.2006 for execution of multi-storied buildings at the Post Graduate Center, Kadapa. Pursuant to Act.28 of 2006, Yogi Vemana University at Kadapa was established, conferring full-fledged university status on the hitherto existing Post Graduate Center. According to the writ petitioner, the works have been executed as per the designs furnished by the consultant De-Coop, Bombay and also by maintaining the specified quality of construction and also workmanship. Material as per the standard specifications is also employed. But however, when serious allegations have appeared in the media regarding poor quality of execution of civil works, the State Government took a serious view and by an order passed on 25.09.2006, appointed Sri F.C.S. Peter, Quality Control Officer of the Roads and Buildings Department and Sri N. Krishnam Raju, Advisor, A.P. Housing Board to examine the quality of constructions executed by the petitioner herein and submit their report. Accordingly, M/s Peter Committee inspected the construction of multi-storied building at the respondent university premises comprising of Natural Sciences and Physical Sciences Blocks, Guest House, A-Type Hostel Building, B-Type Hostel Building, the dining hall and the Mess attached thereto. On 11.10.2006,

M/s Peter Committee submitted its report to the Government setting out importantly that detailed structural drawings are not available at the site and those drawings available at the site disclosed abnormal standards for structural frame and that the specifications drafted for the work are not as per the Building code. Several other irregularities noticed by them were also pointed out in that report. At that stage, alleging that there were gross irregularities, in execution of works by the petitioner and there were also financial irregularities, one Sri K. Ramachandra Reddy, who retired as a lecturer in Physics Department, Government College, Kadapa filed W.P.NO.15870 of 2007. On 25.02.2008, taking a serious note of the lapses pointed out by M/s Peter Committee, this Court passed a detailed order making serious observations while calling the attention of the State Government to the whole issue and impleading the Chief Secretary to the Government of Andhra Pradesh as a party respondent to W.P.No.15870 of 2007 and required the action taken report to be submitted to this Court. In compliance to the directions issued by this Court, the State Government directed the Director General, Vigilance & Enforcement and Ex-Officio, Principal Secretary to the Government in General Administration Department to conduct a thorough enquiry and submit his report. Accordingly, the Director General (Vigilance & Enforcement) has undertaken inspection of the site where the petitioner carried on execution of works and filed its report on 25.05.2007 before the State Government.

The Director General collected various samples of the material and also the concrete and got it tested at Sri Venkateswara Polytechnic College, Tirupati and Sri Venkateswara Engineering College, Tirupati. The lab reports obtained by the Director General appeared to be within the permissible tolerance limits of the specifications. Thereafter, the State Government has also noted that a meeting took place on 19.10.2006 at National Academy of Construction, Hyderabad, between the Design consultant of the Project, the writ petitioner and Sri F.C.S. Peter, Advisor, Quality Control as well as Sri N. Krishnam Raju, Consultant. The Design consultants from Bombay have clarified all technical doubts entertained earlier by M/s Peter Committee. After this meeting took place on 19.10.2006, no further adverse remark or report has been submitted by M/s Peter Committee. The State Government has passed orders through their G.O.Rt.No.245 Higher Education (U.E-I) Department dated 13.03.2008 constituting a Technical Committee comprising of the Chief Engineer, Roads & Buildings Department and the Director of Bureau of Industrial Consultancy, J.N.T.U, Hyderabad and this Committee was tasked to

inspect the works covered by M/s Peter Committee report and to submit its findings. This latest Technical Committee, after conducting certain non destructive tests, filed its report on 02.05.2008 setting out that the structural soundness of the works, which were earlier inspected by the Peter Committee is found to be satisfactory based upon the field and laboratory tests results. It was further certified by this Committee that the execution of the works was in accordance with the designs submitted by the consultant. Ultimately, the State Government has informed this Court by way of an affidavit filed in W.P.No.15870 of 2007 that all remedial measures which have been suggested by this Court and various other experts have been put in place and the State Government was of the opinion that the works have been executed satisfactorily.

Because of the pendency of W.P.No.15870 of 2007, the University kept pending the release of the security deposit and other amounts payable to the petitioner.

By a separate judgment, W.P.No.15870 of 2007 has been found by this Court as lacking in merit and accordingly that writ petition was dismissed.

In view of the findings of the Technical Committee appointed by the State Government through their G.O.Rt.No.245 Higher Education (U.E-I) Department dated 13.03.2008, that the works have been executed satisfactorily, and the laboratory tests carried out by that Committee are found to be well within the tolerance limits of specifications, it is imperative, the monies withheld and payable to the petitioner for the works executed are required to be released and paid up immediately. It is only appropriate that, if the monies payable to the petitioner have been kept in any interest earning deposit, the same shall be released with the amount of interest so earned. Since, it is difficult to describe the action of the respondent-University in not releasing the said monies in view of the pendency of W.P.No.15870 of 2007, I cannot find any fault on the part of the University to withhold the said payment till the said writ petition is decided.

Therefore, this writ petition is allowed. Respondents are directed to release the final bill amounts including the withheld security deposits within a maximum period of thirty days from the date of receipt of this order.

Consequently, miscellaneous applications pending shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

01.04.2015

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