IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

TUESDAY, THE EIGHTEENTH DAY OF AUGUST TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.17220 of 2015

Between:

IVRCL Infrastructures & Projects Ltd.,
MIHR, 8-2-350/5/A/24/1b, Road # 2,
Panchavati Colony, Banjara Hills,
Hyderabad 500 034,
Rep. by A. Nanda Kumar,
S/o. Balaswamy, Sr. Manager.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary to Government,
Panchayat Raj & Rural Development Department,
Secretariat Buildings,
Hyderabad & 3 others

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.17220 of 2015

ORDER:

The petitioner is a company. It was involved in undertaking various construction works. According to the petitioner, the Superintending Engineer, RWS&S Circle, Hyderabad (3rd respondent) awarded work to the petitioner's company vide Agreement No.33/2005-06, dated 16.03.2006. In terms of the Agreement so granted to the petitioner, work was completed by 30.11.2009 and commissioned on the same day. The work completed by the petitioner has been in utilization all along. On completion of the work, the petitioner was entitled for payment of total bill amount of Rs.12,04,25,628/-, whereas he was paid only Rs.7,76,33,380/-. The remaining amount is yet to be paid. On 26.06.2013, the petitioner submitted a detailed account of the total amount payable to the petitioner. So far, no orders are passed on the said statement filed by the petitioner and the amount due to the petitioner is not released. Hence, this writ petition is filed.

2. Learned counsel for the petitioner contends that the action of the respondent authorities in not releasing the amount payable is arbitrary and discriminatory. There is no justification to release payment when the work was completed in November, 2009, and the work is in utilization. Learned counsel for the petitioner further submits that according to the contract entered into by the petitioner with the respondent authorities, provisions are made regarding several aspects of the contract. Clause 3 of Page 31 of the Agreement, dated 16.03.2006, deals with the Final

Account. According to this clause, the petitioner has submitted the statement as referred to above and the competent authority is required to pass orders.

3. As seen from Clause 3 of the Agreement, the contractor should supply to the Engineer a detailed account of the total amount according to him is payable under the contract before the end of the defects liability period. Thereafter, the Engineer should issue a Defect Liability Certificate and certify final payment which is due to the contractor within 56 days of receiving of the contractor's account, if the statement is correct. If he is disputing the statement, the Engineer should issue schedule regarding required corrections or additions that are necessary. If the final account is still unsatisfactory after it has been re-submitted, the Engineer should decide on the amount payable to the contractor and issue a payment certificate. Thus, though clause 3 fixes a time frame within which the statement submitted by the petitioner was to be considered, the same has not been considered till date. No explanation is forthwith coming as to why the statement filed by the petitioner on 26.06.2013 is not considered.

4. The matter underwent adjournment on 18.06.2015 and by now also, no instructions are furnished to the learned Government Pleader.

5. When the matter is taken up for consideration, the learned counsel for the petitioner requested that since his statement filed on 26.06.2013 in accordance with clause 3 of the Agreement, dated 16.03.2006, is still pending, a direction be

issued to pass appropriate orders as per such statement and if the respondents do not release the money, he can work out his remedies.

6. Having regard to the said submissions, the Writ Petition is disposed of directing the respondents 3 and 4 to consider the statement of account filed by the petitioner on 26.06.2013 in accordance with the clause 3 of the Agreement, dated 16.03.2006, and pass appropriate orders, as warranted by law, in accordance with the terms of the contract within a period of four (4) weeks from the date of receipt of a copy of this order and communicate the decision to the petitioner. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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P.NAVEEN RAO, J

Date: 18th August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.17220 of 2015

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Date: 18th August, 2015

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