THE HON'BLE SRI JUSTICE A.V. SESHA SAI

WRIT PETITION Nos.3465, 3544 and 5833 of 2015

COMMON ORDER:

Since the cause of action for these three writ petitions is common this Court deems it appropriate to dispose of these three matters by way of this common order.

Heard Sri G. Rama Gopal, learned counsel for the petitioner and learned Government Pleader for Finance and Planning for respondents, apart from perusing the material available before this Court.

Petitioners are the Contractors who admittedly executed the contracts under the supervision of the respondents herein. In all these three matters the District Collector, West Godavari District issued cheques on various dates towards the works executed by the petitioners herein.

The grievance of the petitioners herein is that when the said cheques were sent to the District Treasury Officer, Eluru – 7th respondent herein for necessary authentication the District Treasury Officer refused to authenticate the same by relying upon a memo bearing No.7420/13/A1/DCM.1/2014, dated 24-06-2014 issued by the 1st respondent – State Government.

Calling in question the validity and legal sustainability of the said action on the part of the respondent authorities, the present writ petitions came to be instituted.

Resisting the writ petitions counter-affidavit is filed by the

1st respondent herein.

It is contended by the learned counsel for the petitioners that the questioned action on the part of the respondent authorities is highly illegal, arbitrary and violative of Articles 14, 19 (1)(g) and 300-A of the Constitution of India. It is further submitted by the learned counsel that the financial period covered by the impugned memo, dated 24-06-2014 also came to an end long back, as such, there cannot be any impediment for the respondent authorities to pay the due amounts to the petitioners herein which are quantified.

Per contra, it is vehemently contended by the learned Government Pleader that there is absolutely no illegality nor any material infirmity in the impugned action on the part of the respondent authorities, as such, the present writ petition is not maintainable and the petitioners are not entitled for any relief under Article 226 of the Constitution of India.

There is absolutely no dispute with regard to the works executed by the petitioners herein under the jurisdiction of the respondents and the preparation of cheques by the District Collectors towards amounts payable to the petitioners herein and there is also no dispute with regard to the amounts payable to the petitioners herein.

According to the counter-affidavit filed by the 1st respondent herein, the planning department note No.3041/Planning.SDF/2014, dated 19-06-2014 started reviewing the status of the SDF works which were sanctioned from 2011-12 onwards and requested to issue necessary instructions to the executing agencies of concerned departments not to ground the works which have not been started yet and also informed to the concerned to furnish a detailed report on year-wise status of works grounded and expenditure incurred for further review. It is also stated in the counter-affidavit that on receipt of the said note, dated 19-06-2014 from the Planning Department, the finance department issued instructions vide memo No.7420/13/A1/DCM.I/2014, dated 24-06-2014 to the Director of Treasuries and Accounts to instruct all District Treasury Officers in the State not to authorize any payments from SDF funds during the financial year 2014-15.

It is also stated in the said counter-affidavit that soon after receipt of communication from the Planning Department on review of SDF works, Government will take a decision on freezing of funds ordered in vide memo No.7420/13/A1/ DCM.I/2014, dated 24-06-2014 and payment to the petitioners.

In the instant case, there is absolutely no controversy with regard to the works executed by the petitioners herein in accordance with the directions of the respondents herein and there is also no controversy with regard to the reality that the District Collector also prepared cheques and sent the same for authentication to the District Treasury Officers. It is also to be noted that the period i.e., 2014-15 as mentioned in vide memo No.7420/13/A1/DCM.I/2014, dated 24-06-2014 also came to an end long back, therefore, refusal to pay in the guise of the said memo is also unsustainable and there is no justification on the part of the respondents in withholding the amounts.

The reasons assigned in the counter-affidavit in the considered opinion of this Court cannot be said to be valid and reasonable for withholding the amounts due to the petitioners herein. The respondents herein, having got the works executed by the petitioners are not expected to ask the petitioners to wait till eternity. Therefore, this Court deems it appropriate to direct the respondents herein to pay the amounts due to the petitioners herein by fixing some time frame.

For the aforesaid reasons, the writ petitions are allowed, directing the respondents herein to arrange payments to the petitioners herein for the works executed by the petitioners within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESHA SAI, J

August 12, 2015

Pn

THE HON'BLE SRI JUSTICE A.V. SESHA SAI

WRIT PETITION No.3465, 3544 and 5833 of 2015

August 12, 2015

Pn