

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

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 39915 of 2015

BETWEEN

M/s.NCC Ltd. (formerly Nagarjuna Construction Company Ltd.), Rep. by its
Company Secretary

... PETITIONER

AND

The State of Andhra Pradesh, rep. by its Principal Secretary and others

...RESPONDENTS

Date of Order pronounced: 10.12.2015

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ORDER:-

Heard learned counsel for the petitioner; learned Additional Advocate
General; and the learned Government Pleader for Revenue.

2. Petitioner states that he has entered into an agreement No.30/2007 dated 29.12.2007 for a contract of the value of Rs.53,18,86,600/-. Petitioner states that he has successfully completed the work and the project was commissioned on 26.04.2010 and the defect liability period is 24 months from the date of commissioning of the scheme and taken over by the engineer or 30 months from the date of completion and taken over by the engineer whichever is earlier. At the time of obtaining the contract petitioner

is stated to have given security deposit of Rs.1,32,97,500/-. Since the petitioner has completed the entire work successfully and there are no claims, petitioner received a letter from the fourth respondent dated 03.06.2015 requiring it to remit Rs.7.26 crores price variation. Since no particulars or reasons were disclosed, petitioner is stated to have requested the fourth respondent to give necessary details and documents under his letter dated 01.09.2015 and in response thereto it is stated that the fourth respondent had submitted copies of certain documents under letter dated 08.10.2015. Petitioner was also communicated with Memo No.10960/Vig.III.2/2014 dated 03.09.2014 issued by the Principal Secretary to the Government, Municipal Administration and Urban Development (Vig.III) Department. The said Memo in turn accepts the vigilance report No.83 (498/V&E(E2/2010-Anantapuram PH) dated 08.05.2014 of the General Administration (Vigilance & Enforcement) Department, pointing out certain irregularities in award of price adjustment of material/pipes procured during the works in Anantpur District. Present writ petition is filed questioning the Vigilance report as well as the Memo of the Government and the demand made by the fourth respondent for remission of Rs.7.26 crores on the petitioner as per the impugned letter dated 08.10.2015. One of the grounds urged in support of the writ petition is that petitioner was never heard and was never given any opportunity to establish that the conclusions reached in the vigilance report are not tenable and the petitioner received the payment only as per terms of the agreement.

3. Learned Advocate General appearing for the respondents fairly states that since one of the contentions raised in the writ petition relates to violation of principles of natural justice, respondents are willing to give notice to the petitioner on the conclusions reached against him in the vigilance report and give him an opportunity to submit its reply/explanation/objections and then the fourth respondent will hear the petitioner and then pass appropriate order.

4. In view of the said consensus, the impugned order of respondent No.4, being violative of principles of natural justice, is set aside and the entire issue stands remitted to the fourth respondent, who shall give notice to the petitioner with regard to the conclusions reached against him in the report.

Since the petitioner already has a copy of the vigilance report, petitioner shall file its response to the said notice within four weeks from the date of receipt of the notice and thereafter the fourth respondent shall fix a date for hearing, intimate the petitioner, hear him, and take appropriate decision in the matter, in accordance with law. Impugned proceedings of the fourth respondent are accordingly set aside and the matter is remitted to the fourth respondent to comply with the directions as mentioned above.

Writ petition is accordingly allowed in part. As a sequel the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 10, 2015

Note: -

Furnish copy in two days.

{B/o}

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