

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 9766 of 2008

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ORDER :

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This writ petition is filed seeking writ of mandamus declaring the action of the respondents in not refunding the deposited amount of Rs.42,930/- being the EMD and FSD deposits for the contract works executed by the petitioner as illegal and arbitrary and consequently to direct the 2nd respondent to refund the deposited amount together with interest @ 18% p.a.

2. It is the case of the petitioner that he is a Class III Contractor and he has executed the works as per the terms and conditions of the agreement entered into with the respondents. The petitioner has deposited an amount of Rs.42,930/- towards EMD and FSD for the 8 works allotted to him. After completion of the work awarded to him in the year 1994-1995, the petitioner made an application for refund of EMD and FSD. As there was no response from the respondents, the petitioner got issued legal notice dated 29.01.2001. He also filed a complaint before the Lok Adalat in Case No.66 of 2002 on 10.02.2002. In response to the notice issued by the Lok Adalat, the 2nd respondent issued a reply stating that the amounts will be refunded after receipt of hand receipts along with M Books from the Section Officer concerned. The petitioner had submitted all the required documents i.e., hand receipt agreements, details of EMD and FSD deposits of all eight works executed by him on 17.11.2005 to the 2nd respondent. Even after receipt of the same, the respondents have not refunded the said amount. Aggrieved by the same, present writ petition is filed.

3. Counter affidavit is filed by the 2nd respondent stating that the

petitioner has completed all the works allotted to him in the year 1997. It is stated that the petitioner has to approach the concerned authorities within a period of three years, i.e after lapse of two years which is a minimum lock in period for the EMD for the works done by him and within 5th year of execution of work he has to file an application along with receipt for repayment of EMD and FSD. It is stated that the works were entrusted in the year 1994 and executed in the year 1997-98 and the petitioner should have approached the concerned authorities at least by 2001 but he did not do so. Petitioner has approached Lok Adalat, Tenali, Guntur District claiming the EMD and FSD amounts. Petitioner failed to submit the hand receipts claiming for refund of EMD and FSD within time and sought for dismissal of the writ petition.

4. Heard Smt. P.Radhika, learned counsel for the petitioner and learned Government Pleader for Panchayat Raj appearing for the respondents 1 and 2 and learned Government Pleader for Revenue appearing for 3rd respondent.

5. Learned Government Pleader for Panchayat Raj had reiterated his submissions basing on the pleadings in the counter affidavit.

6. Learned counsel for the petitioner relied on the Order passed by this Court dated 05.09.2008 in W.P.No.25934 of 2000 and submits that this Court has negated the similar contentions raised by respondents.

7. In the instant case on hand, it is to be seen that only ground on which the respondents denied the refund of EMD and FSD to the petitioner is that hand receipts were not submitted by the petitioner within time. It is not the case of the respondents that hand receipts were not at all submitted and no Rules or Regulations produced before this Court to show that the petitioner's claim is time barred. A perusal of the judgment of this Court in W.P.No.25934 of 2000 dated 05.09.2008 shows that in similar circumstances when the respondents raised similar pleas for not returning EMD and FSD, this Court has negated their contention, allowed the writ petition and

directed to refund the EMD and FSD amounts. The facts in the aforesaid writ petition and in the present case are almost similar. Moreover, the proceedings dated 23.12.2002 clearly shows that the petitioner made application on 15.11.2000 for refund of the EMD and FSD amounts. Even according to the respondents, the work was completed in the year 1997-98, as such, it cannot be said that the petitioner has made application belatedly. Having submitted the application for refund well within the time, there is no justification for the respondents to withhold the said amount. In view of the same, I am of the opinion that petitioner herein is also entitled for the similar relief.

Accordingly, this writ petition is allowed and the respondents are directed to refund the EMD and FSD amounts to the petitioner with interest at the rate of 9% per annum from the date of submission of the application. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

A.RAJASHEKER REDDY, J

28.10.2015.

KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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