

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 2381 of 2015

DATE: 06.02.2015

Between:

East West Engineering Works

.. Petitioner

And

1. The State of Andhra Pradesh

2. Port Officer

3. The Director of Port

.. Respondents

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ORDER:-

The assertion of the petitioner – East West Engineering Works is that the Government, with a view to establishing marine based industries, issued orders in G.O.Ms.No.8, dated 03.03.2008 allotting an extent of Ac.20.00 cents of land in Kakinada Port in favour of the petitioner. In pursuance of the Government Order, the Secretary to the Government, vide Memo dated 05.05.2008, permitted the 3rd respondent - Director of Port to allot Ac.16.09 cents of land to the petitioner forming part of Ac.20.00 cents of port land which was earlier allotted to M/s.East Coast Boat Builders, Kakinada on lease for a term of 33 years. However, as the lease expired by efflux of time, the port authorities cancelled the lease granted in favour of East Coast Boat Builders and allotted the same to the petitioner on condition that the petitioner agrees to pay dues of East Coast Boat Builders with an assurance from the Director of Ports that the money would be paid back to the petitioner on its realization from East Coast Boats Builders, and further, the government directed the port authorities to identify and allot the remaining extent of Ac.3.81 cents to the petitioner. While so, it is stated that after the dues amounting to Rs.89.00 lakhs were paid by the petitioner, a survey was made by the authorities of the Port, wherein only an extent of Ac.9.60 cents was found available for allotment out of Ac.16.19 cents and the remaining extent of Ac.6.59 cents of port land was already allotted to

M/s.G.M.R. Power Project. Therefore, a deed was executed on 19.06.2012 in favour of the petitioner in respect of allotment of an extent of only Ac.9.60 cents of land. The 2nd respondent-Port Officer, by invoking Clause 18 of the agreement entered into between the earlier lease holder and the port authorities, collected the amount due by the East Coast Boasts Builders from the petitioner and confirmed rights to the petitioner over the material and the machinery retained in the leased port land. It is stated that even after a lapse of 5 years, the 3rd respondent has not taken any steps to refund the amount of Rs.89.00 lakhs to the petitioner nor even permitted the petitioner to enjoy the loose material and machinery for its marine activities. That apart, the

3rd respondent-Director of Port issued notification dated 20.07.2013 inviting sealed quotations for the purpose of valuation of material and the machinery. Questioning the same, when the petitioner filed W.P.No. 32482 of 2013, this Court suspended the impugned tender process. However, in violation of the orders of this Court, the port authorities conducted auction of the material on 30.10.2014, but its confirmation was not effected. On account of this auction, the petitioner could not commence full-pledged activities in the port land and the purpose and object to develop and facilitate the Kakinada Port for its full functionality is also being suffered. Finally, the petitioner, with a view to putting an end to this litigation and to safeguard the material which are immovable engineering structures lying on the port ground, made representation dated 17.01.2015 proposing to pay the highest bid amount in the auction. Now, the grievance of the petitioner

is that the respondents have neither considered the representation said to have been made by the petitioner nor passed any orders thereon so far. Hence, the present writ petition is filed seeking appropriate directions.

Heard the learned counsel for the petitioner and perused the material placed on record.

The learned Government Pleader for Infrastructure and Investment appearing for the 1st respondent seeks time to get instructions.

Having regard to the nature of request made by the petitioner by way of filing representation dated 17.01.2015 intending to pay the highest bid amount with a view to continuing its full-pledged services both to develop and facilitate the Kakinada port and to avoid any loss to his business, this Court, without expressing any opinion on the merits of the case, is inclined to dispose of the writ petition with the following directions:

“The respondents are directed to consider the proposals said to have been made by the petitioner by way of representation dated 17.01.2015 and pass appropriate orders thereon, in accordance with law, within a period of six weeks from today.”

With the above direction, the writ petition is disposed of.
No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

06.02.2015

bcj