

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.24039 of 2011

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking writ of mandamus to direct the respondents to allot the work until the dues, arrears and total benefits are paid to the petitioners herein in the light of G.O.Ms.No.333 dated 07.03.2011.

The case of the petitioners is that their associations have registered their societies as per the law and they have been working for the past five years in Municipal contract works. The petitioners started their works in the respondents' office jurisdiction since 2008 and from there they have been extending their services by way of engaging contract labour in their respective areas. The petitioners have to receive arrears and dues from September, 2008 to February, 2011, in the light of G.O.Rt.No.1289 dated 09.09.2008, circular ROC No.1994/2007-M1 dated 10.09.2008 and letter No.B1/Cont.L/1188/2010 dated 30.06.2010 issued by the respondents herein in pursuance to the Government instructions vide G.O.Rt.No.4271 dated 01.11.2008 of Finance (SMPC) Department.

Counter is filed by the 1st respondent stating that in accordance with the G.Os. and circulars, the petitioners were paid all the arrears on 24.03.2011 from September, 2008 to 04.02.2011, strictly as per the agreement entered into by the petitioners and respondent-Municipality dated 31.03.2009, but they are not entitled to any amount more than Rs.4,030/- per month. In fact, the Government issued G.O.Rt.No.33 MA & UD, dated 07.03.2011 for enhancement of the remuneration to Rs.6,700/- per month with immediate effect. The rate fixed in the said G.O. is not applicable to the petitioners herein, since they were continued in the Municipality upto 04.02.2011 only and not entitled to any arrears at the rate of Rs.6,700/- per month. As per the tender notification dated 10.06.2011, the new contractors came into existence and the

tender was not finalized due to interim orders granted by this Court in W.P.No.16298 of 2011 dated 21.06.2011 and the said writ petition is pending, wherein this respondent-Municipality already filed its categoric counter dated 29.07.2011.

Since in the counter, it is stated that all the dues were paid according to the agreement dated 31.03.2009 entered into between the petitioners. Petitioners have not filed any reply to the counter affidavit. More so, it is a dispute arising out of contract. Disputed question of fact cannot be resolved by exercising jurisdiction under Article 226 of the Constitution of India. However, it is open for the petitioners to avail other remedies available.

Accordingly, this writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

12.06.2015

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