

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NOs.30989, 31189 AND 34342 OF 2012

DATED:8-7-2015

W.P. No.30989 of 2012

Between:

M/s. BVSR Constructions Pvt. Ltd.,
A company registered under the provisions of the Companies Act,
Having its registered office at H. No.5-8-51/1,
Fathe Sulthan Lane, Nampally, Hyderabad
Rep. by its Authorised Signatory,
A. Venkateshwarlu

... Petitioner

And

The Government of Andhra Pradesh,
Rep. by its Principal Secretary, Irrigation and
Command Area Development Department (I&CAD)
Secretariat Buildings
Hyderabad
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Kartik Pavan Kumar, for
Mr. S. Srinivas Reddy

COUNSEL FOR THE RESPONDENTS: A.G.P. for Irrigation and
Command

Area Development (TS)

THE COURT MADE THE FOLLOWING:

ORDER:

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These writ petitions raise common issues. Hence, they are heard and being disposed of by this common order.

The petitioners have executed contract works for the respondents. The contracts provided for payment of Standard Schedule Rates (SSRs) of particular years. However, the petitioners pleaded that due to delay attributable to the respondents, the works could not be executed within the stipulated contract period, as a result of which the petitioners have incurred higher expenditure due to increased cost of execution. The petitioners' request for payment of SSRs of subsequent years during which the works were executed, was rejected.

Separate counter affidavits have been filed on behalf of the respondents wherein the petitioners' claim for payment of higher rates has been denied. The counter affidavits also denied the averment of the petitioners that due to reasons attributable to the respondents, execution of the contracts was delayed. It is further stated that the petitioners while applying for extension of contract periods have undertaken to not claim extra rates and that therefore they are not entitled for payment of higher rates.

The disputes raised in the writ petitions arise under concluded contracts. The petitioners' claims are governed by the terms of the agreements. The agreements provide for resolution of disputes through common law remedy of a civil suit. Though the petitioners relied upon certain reports of the subordinate officers on the reasons for delayed execution of the works, the respondents have disputed the claim of the petitioners that the delay was attributable to the

Department. Thus, several disputed questions of fact need to be adjudicated. It is not possible for this Court to undertake such exercise in the writ petitions filed under Article 226 of the Constitution of India.

Though the petitioners have raised the plea of discrimination, this issue also needs to be decided with reference to the facts pleaded by the petitioners in these writ petitions and on appreciation of evidence. Hence, this Court is of the opinion that the appropriate remedy for the petitioners is to file civil suits.

For the above mentioned reasons, the writ petitions are dismissed without expressing any opinion on the merits of the cases, with liberty to the petitioners to avail the remedy of civil suits.

As a sequel to dismissal of the writ petitions, W.P.M.P. Nos.39519 29768 and 43678 of 2012 filed in the writ petitions respectively shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

8-7-2015

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