

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 19310 of 2007

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ORDER :

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It is the case of the petitioner that in pursuant to tender notice, the 2nd respondent awarded contract vide agreement dated 19.02.1997 for the work relating to BT Surface on road Amsanipally PWD Road to Sangaipet PWD road via Wariguntham NABARD RIDFII, Medak District under NABARD grant. The agreement period is for one year and the approximate value of the work is Rs.30,00,000/-. The said work was completed on 01.04.1998. After completion of defective liability period, as per the agreement, the deposit has been returned to the petitioner. Prior to return the deposit, the bills which were released by the first respondent from time to time and the final bill also completed in the year 1998. The entire relationship between the petitioner and the respondents has been ceased in respect of the said agreement.

2. While so, on 21.10.2000, the 2nd respondent issued proceeding vide DB/AE/866/2000, dated 21.10.2000 to the petitioner informing about recovery of amount of Rs.3,40,194-14 from the bills as per the inspection report. The petitioner filed representation dated 30.12.2000 stating that the said recovery of amount is beyond the scope of agreement condition and sought to drop the same. The 1st respondent without considering the said representation, issued notice dated 04.12.2002 to the petitioner stating that the amounts will be recovered from the bills available to the extent of payment to the petitioner. The petitioner submitted representation dated 26.12.2002 requesting the authority to drop the said recovery. The 2nd respondent again issued another notice dated 04.01.2003 stating that he is not the competent authority for dropping or canceling the recoveries. On 27.01.2003, the petitioner submitted another representation for dropping the proposed recovery. On 12.12.2003, the 2nd respondent addressed letter to the 3rd respondent stating that the

aforesaid awarded work has been inspected by the 5th respondent after a lapse of defective liability period and that it is very difficult to recover amount from the petitioner and requested the 3rd respondent to issue further instructions. The 3rd respondent recommended to waive of all the recoveries proposed against the petitioner. When the recommendations are pending for waive off the recovery before the 1st respondent, the 2nd respondent is proposing to recover the aforesaid amount in future bills. Aggrieved by the same, the present writ petition is filed.

3. Counter affidavit is filed by the 1st respondent denying the averments of the affidavit filed in support of the writ petition stating that the subject contract work was awarded to the petitioner vide agreement dated 19.02.1997 and the same was completed by 18.04.1998 but not 01.04.1998 as alleged by the petitioner and final bill was also paid on 28.05.1998. The defect liability period is 12 months from the date of completion of the work. The deposits were also released on 16.06.1999 i.e., after expiry of liability period of one year from 18.04.1998 by the 2nd respondent but not the first respondent as stated by the petitioner. It is stated that taking of one sample per Kilo Meter is not contrary to the guidelines. The 5th respondent has not harassed the petitioner but exercised his legitimate duty by inspecting the work done by the petitioner and assessed the reasons for damage caused to the roads laid by the petitioner in view of the awarded contract. It is stated that the 2nd respondent had addressed all the Heads of Departments dated 02.03.2010 for effecting the recovery of amount of Rs.3,40,194.14 from the work bills submitted by the petitioner.

4. Heard Smt. Akella Padma, learned counsel for the petitioner and learned Government Pleader for Panchayat Raj for the respondents.

5. It is to be seen that the work awarded to the petitioner was completed and all bills pertaining to the same were paid to the petitioner.

Even according to the agreement dated 19.02.1997, the liability period

expires by 18.04.1998. But the present impugned notice was issued on 04.12.2002, which is beyond the period of liability. Admittedly, the respondents, after being satisfied with the works done by the petitioner, released all the security deposits on 16.06.1999. Since the defect liability period has already elapsed, the action of the respondents is not in tune with the agreement dated 19.02.1997, as such, the impugned notice dated 04.12.2002 issued by the 2nd respondent is liable to be set aside and same is set aside.

Accordingly, the writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand disposed of.

01.09.2015.
KVS

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 01-09-2015

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