

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.42429 of 2016

ORDER:

Heard Mr. O. Manohar Reddy for petitioner and Mr. G. Vidyasagar, learned senior counsel, for respondents. With the consent of learned counsel appearing for parties, the writ petition is disposed of.

2. Petitioner challenges Letter No.CE/KTPS(O&M)/DE/Adm/D.No.20/2016 dated 01.12.2016, which reads thus:

From	To
The Chief Engineer/ (O&M) &	M/ s. Sai Balaji Communications
Chairman/ Cable TV Committee,	H.No.14-1-66, SBH Road,
KTPS O&M, Paloncha-507115,	New Paloncha-507115,
Bhadradi Kothagudem Dist.	Bhadradi Kothagudem Dist.

Letter No.CE/ KTPS(O&M)/ DE/ Adm/ D.No.20/ 2016 dt. 01.12.2016

Sir,

Sub:- KTPS (O&M) - Providing & Operation of Cable TV Network & Internet in KTPS Colony-Acceptance of your quotation – Cancellation orders issued – Regarding.

Ref:- 1) TenderNotice.No.DE/ ADM/D.No.06/2016. Dt.27.08.2016
2) Your offer ref; Nil dated 23.09.2016.
3) Lr.No.CE/KTPS (O&M)/DE/ADM/D.No.16/2016, Dt.29.10.16.

The letter of acceptance issued in favour of you by this office vide reference 3rd cited above regarding the subject work is here by cancelled on administrative reasons with immediate effect.

Sd/ -
Chief Engineer/ (O&M)
&
Chairman/ Cable TV
Committee
KTPS/ O&M/ Paloncha

3. The grievance of petitioner is that the petitioner has fully complied with all the conditions imposed through letter dated 29.10.2106 and the draft agreement was also circulated on two difference occasions and without entering into the agreement

forwarded by petitioner for uninformed reasons, the communication impugned in the writ petition has been made and send to petitioner. The challenge is principally on the ground of arbitrariness even assuming the respondents have jurisdiction in exercising the power to recall the award of work through letter dated 29.10.2016.

4. Mr. G. Vidyasagar, on instructions and also on the exhibits filed by petitioner, firstly, tried to convince this Court that as there is inadequate performance of reciprocal obligation by petitioner, the respondents were compelled to issue the letter impugned in the writ petition. He fairly admits that a few of the aspects which have gone into the decision making process of respondents for communicating the letter impugned in the writ petition ought to have been stated in the letter dated 01.12.2016. He fairly submits that the communication impugned in the writ petition can be treated as show cause notice proposing to recall the communication dated 29.10.2016. Petitioner may be given liberty to explain all the steps and the infrastructure put in place by petitioner; the respondents will consider and take decision as warranted in the fact situation of the case.

5. The dispute, particularly, is one in the nature of providing and operating Cable TV Network and Internet in KTPS Colony, Kothagudem.

6. I have perused the subject file and this Court is of the view that the communication impugned in the writ petition virtually shall have to be treated as a unilateral decision rescinding the work entrusted to petitioner through communication dated 29.10.2016.

The communication impugned in the writ petition, firstly, does not refer to the cause compelling the respondents to take the extreme step of cancellation of entrustment of work to petitioner and secondly, after petitioner started performing the obligation, if the petitioner is to go out unceremoniously, the same causes hardship as well, by accepting the communication dated 29.10.2016.

7. Be that as it may, learned senior counsel representing respondents submits that the communication impugned in the writ petition can be treated as notice intending to terminate the right granted through letter dated 29.10.2106 and the petitioner can be given one week time from today to file explanation and the respondents will consider the explanation and take a decision as is warranted in the fact situation of the case. This Court is of the view that to ensure fairness in action if the respondents feel compelled to inform any other reason, which compel them to take extreme step of cancellation, they are free to communicate the same to petitioner within three (3) days from today.

The writ petition is ordered as indicated above. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

December 9, 2016
Note: Furnish C.C. today.
(B/o) DSK