

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.12684 OF 2016

ORDER:

The writ petition is filed challenging the proceedings dated 13.11.2015 of the 3rd respondent-Executive Engineer.

As can be seen from the material placed before this Court a decision was taken based on the assessment made about the need to dig a new bore well in the place of defunct bore well at Ch. Pothepalli Village of Dwaraka Thirumala Mandal at an estimated cost of Rs.4,75,000/-. The said work was appeared to have been entrusted to the petitioner as Chairman, Village Level Works Committee (VLWC) of Ch. Pothepalli by proceedings dated 10.07.2015 of the 3rd respondent-Executive Engineer. It is an admitted fact that the petitioner who was entrusted with the work has not executed the same within the time stipulated. However, now the grievance of the petitioner is that by the impugned proceedings dated 13.11.2015 a decision appeared to have been taken to dig a bore well at M.P.U.P School, D. Tirumala Village at an estimated cost of Rs.5,00,000/- instead of at Ch. Pothepalli Village as originally sanctioned vide work order dated 10.7.2015. It is the submission of the petitioner that so far as non execution of the work as per the work order given to the petitioner on 10.7.2015, respondents may take any action including levy of penalty in terms of the agreement but the shifting of the location of the bore well ought not be done merely on account of the failure on the part of the petitioner in executing the work. Further, the decision taken to shift the bore well is merely on account of the influence of the local M.L.A. due to political rivalries.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj.

Facts are not in dispute. In the impugned proceedings dated 13.11.2015, there is a reference to the representation made by the M.L.A of Gopalapuram making an alternative proposal to the Chief Executive Officer, Zilla Praja Parishad, Eluru vide order dated 1.9.2015. Petitioner cannot make any grievance for digging a bore well at the M.P.U.P School, D. Tirumala Village. At the same time shifting of location of bore well at Ch. Pothepalli, D. Tirumala Mandal which was sanctioned on 10.07.2015 does

not appear to have been made based on any discernable criteria. It cannot be given said that when the work order dated 10.07.2015 was issued to dig a bore well at Ch. Pothepalli Village the presumption is that a decision based on the need was taken. Merely on account of the fact that the Contractor who has been entrusted with the work has not been executed can be the reason to change the location without meeting the need assessed earlier.

In that view of the matter, so far as the decision taken to dig a bore well to M.P.U.P School, D. Tirumala Village based on the recommendation of M.L.A need not be interfered with. However, so far as the decision of the respondent No.3 not to dig a bore well at Ch. Pothepalli village cannot be sustained. In that view of the matter, respondents shall ensure digging of bore well at Ch. Pothepalli Village by engaging a competent agency. This order also shall not preclude the action being taken against the petitioner for breach of contract in not executing the work in terms of the work order dated 10.7.2015.

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

Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

CHALLA KODANDA RAM,J

Date:19.04.2016.

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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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