

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION.No.24025 of 2005

&

WPMP.No.52506 of 2015

ORDER:

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Ordered.

WP.No.24025 of 2005:

2. Heard Mr. A. Suryanarayana Murthy for petitioner.

Standing counsel is not present and accommodation is sought for till tomorrow.

3. I have perused the docket proceedings and having regard to the number of adjournments the matter has undergone; the accommodation sought for is declined.

4. The petitioner prays for Mandamus directing respondents 2 and 3 to refund security deposit/retention amount of Rs.97,197/- to petitioner society forthwith. The petitioner places strong reliance upon Lr.No.DEE/0/MRK/Admn./JAO/C/D.No.3307/05 dated 26.09.2005.

5. The circumstances, relevant for the disposal of the writ petition, are not in dispute and briefly stated as follows:

Petitioner/Labour Contract Co-operative Society Limited, Markapur, is a registered society. The petitioner society is formed with the main object of providing employment to unorganized people in this sector by obtaining contracts from Government organizations and private institutions and executing these labour contracts. Respondents awarded LS Agreement No.C8/92-93 and the petitioner has fulfilled the obligation. Likewise for the years 93-94 and 94-95 further agreements were entered into. According to petitioner,

after completion of the contract periods, the second respondent is not refunding the security deposit/retention amounts, which the petitioner is

legally entitled to as on the date of filing of the writ petitioner.

6. The petitioner issued legal notice dated 03.10.1996. In spite of notice, the amount is not paid by respondents. On the very same subject the second respondent recommended to the third respondent. This Court is of the view that recommendation of second respondent to third respondent dated 26.09.2005, if excerpted, completes the narration of petitioner's case.

"This is to submit that M/s. Labour Contract Co-operative Society Limited, Markapur was issued agreements for manufacturing of P S C C Poles at Markapur Pole Centre during the period from 1992 to 1995. Accordingly, the said Society carried out the work and timely claimed the work bills.

But, the Security Deposits and retention amount are said to have not been claimed back by the said society since then.

The President of the Society had represented for release of the same at several times. The verification of cash book reveals that the Security Deposits and retention amounts have not been released despite of payment of bill amount made to the Society and its several times of representations. For further verification the admitted bills are not available with this office. Moreover, the concerned 'M' books are reported to have been handed over to the Assistant Divisional Engineer, Civil, Ongole, it is also verified to find out where the Security Deposit amounts and retention amount have adjusted against the payment of E P F amounts for workers on behalf of the said Society, but is found that the adjusted amounts are not of this said society."

7. The second respondent filed counter affidavit. The second respondent admits that a sum of Rs.90,154/- was recovered under agreements LS-C2 and LS-C16. The second respondent has not replied to the recommendation on which the petitioner relies upon in support of his case. From the letter addressed by the second respondent to third respondent, it is clear that adjusted amounts are not due and payable by the petitioner society. The mistake of fact ought to have been attended to and appropriate rectification carried out by respondents 2 and 3 by duly verifying the records. The counter affidavit of second respondent is not adverting to the recommendation dated 26.09.2005 to the third respondent. Therefore, the counter affidavit does not disclose true and correct state of affairs.

8. The amount became payable in 1995, letter was addressed in 2005 and the writ petition is heard in 2016. The writ can be disposed of by this order.

9. Respondents 2 and 3 are directed to verify and find out whether the amounts adjusted are payable by the petitioner or not and if the amounts are wrongly adjusted, respondents 2 and 3 are directed to refund the amount payable to petitioner with interest at 6% per annum from 2005 till date of payment. The above exercise is directed to be completed by respondents 2 and 3 within four (4) weeks from the date of receipt of a copy of this order.

The writ petition is disposed of 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

June 27, 2016
DSK