

THE HON'BLE SRI JUSTICE A.V. SESA SAI
WRIT PETITION No.13580 of 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue Writ of Mandamus to declare the action of the respondents in not implementing the amendment issued to the clause 13(ii) of Annexure- 1 of G.O.M.S.No.94 I & CAD (PW-COD) Dept dated 1-7-2003 which was amended through G.O.M.S.No.17 I & CAD (PW-COD) Dept dated 6-2-2004 in respect of enhancement of the percentage from 15% to 25% less than the estimate value of the works contracts is illegal, contrary to law, arbitrary and violate of the Constitution of India and against the principles of natural Justice and further direct the respondents to apply the said amendment in respect of the works awarded and to be awarded to the petitioner by the 3rd respondent within the Jurisdiction of the 3rd and 4th respondents relating to furnishing Additional Security Deposit [ASD] on the less percentage on the estimated contract value.”

This Court, while ordering *rule nisi* on 11-05-2012 in W.P.M.P.No.17036 of 2012 granted interim direction directing the respondents not to insist upon the petitioner to furnish Additional Security Deposit (ASD) contrary to Clause 13 (ii) of Annexure-1 of G.O.M.S.No.94 I & CAD (PW-COD) Department dated 01-07-2003 as amended through G.O.M.S.No.17 I & CAD (PW-COD) Department, dated 06-02-2004 in respect of enhancement of percentage from 15% to 25% less than the estimate value of the works contract.

According to the petitioner, he is a civil contractor who is executing Government works. The sum and substance of the case of the petitioner is that despite the amendment carried out vide G.O.M.S.No.17 I & CAD (PW-COD) Department, dated 06-02-2004, the respondents are not adhering to the procedure stipulated therein.

No counter-affidavit is filed by the respondents, opposing the writ petition. Therefore, this Court has no other option except to dispose of the writ petition basing on the material available.

It is not the case of the respondents herein that G.O.M.S.No.17 I & CAD (PW-COD) Department, dated 06-02-2004 is not in existence as on today and is superceded. So long as the same is in force, respondents are bound to adhere to the same.

For the aforesaid reasons, the writ petition is disposed of, directing the respondents herein to proceed in accordance with G.O.M.S.No.17 I & CAD (PW-COD) Department, dated 06-02-2004, if it is in force as on today.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

November 28, 2016

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THE HON'BLE SRI JUSTICE A.V. SSHA SAI



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