

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.24150 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the first respondent in issuing G.O.Rt.No.610, Irrigation and CAD (Projects-II) Department, dated 30.06.2016 as illegal and arbitrary.

2. Heard Sri C.V.Mohan Reddy, learned senior counsel appearing for the petitioners and Sri K.Ramakrishna Reddy, learned Advocate General, representing the State of Telangana.

3. It is not in dispute that the then Government of Andhra Pradesh called for the tenders for execution of work in respect of J.Chokka Rao Devadula Lift Irrigation Scheme, Phase-III, Package-II Investigation Design and Execution of Tunnel of minimum 6.00 M internal diameter or 5.60 M 'D' shaped with carrying capacity of 49.60 Cumecs water from Bheemghanpur Tank to Ramappa Tank and construction of Head Regulator at the entrance portal of Tunnel including Civil, Electro-Mechanical & Hydro Mechanical, Instrumentation, Auxiliary, Miscellaneous equipment and SCADA system at pumping station at Warangal District vide tender notice No.06/2008-2009 dated 16.07.2008. The petitioners have participated in the tender process and became successful bidders. As per the terms and conditions of the agreement, the petitioners have to complete the work within a period of thirty-six months from the date of entering into contract. Since the contract was entered into on 28.2.2009, the project has to be completed on or before 28.02.2012. The petitioners successfully completed the gravity canal and approach channel without any difficulty. The petitioners also completed the tunnel work to a distance of 1.850 km. It is the case of

the petitioners that the villagers made agitation and not allowed them to execute the contract work. The fact remains that the work was not in progress with effect from 28.07.2011 due to the instructions of the Superintendent Engineer. The concerned irrigation officials approached the Archeological Survey of India in order to ascertain whether the proposed tunnel will affect the structure of the Ramappa temple. The Archeological Survey of India in turn submitted its report in the year 2013 opining that the proposed digging of the tunnel would certainly affect the structure of the Ramappa temple. The petitioners herein made a proposal to execute the work by laying pipe lines instead of digging a tunnel.

4. While so, the respondents have issued the impugned notice dated 05.07.2016 giving option to the petitioners to settle their account as the respondents have decided to close the contract on technical grounds.

5. At the time of arguments, the learned senior counsel appearing for the petitioners made certain proposals. The learned Advocate General in all fairness submitted that the matter will be placed before the Government to take appropriate decision in the best interest of the State Government as well as to protect the rights of the petitioners also.

6. The learned senior counsel Sri C.V.Mohan Reddy submitted that the petitioners are ready to forego the entire amount spent by them in respect of the contract work already executed. The only request made by the petitioners is that the remaining contract work may be entrusted to them and they will complete the entire work basing on SSR rates of the year 2015-16. He further submitted that it is not possible to dig the tunnel as per the original terms and conditions of the agreement. Instead of digging tunnel, the petitioners

are ready to execute the work by laying pipe lines as proposed by both parties. The State Government is the competent authority to consider the proposal made by the petitioners. In view of the submissions made by both counsel, this Court is not inclined to express any opinion touching the merits of the main case.

7. Having regard to the facts and circumstances of the case, the first respondent is hereby directed to consider the representation of the petitioners objectively in the best interest of the State as expeditiously as possible. However, disposal of this writ petition does not preclude the petitioners to avail the remedies available to them under law.

8. Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

T.SUNIL CHOWDARY, J

August 29, 2016.

Note:

Issue C.C. within two days.

B/o.Rns.