

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.40031 OF 2015

DATED:05-01-2016

Between:

A. Malakondaiah
and others

... Petitioners

And

The State of Andhra Pradesh
Rep. by its Principal Secretary
Panchayat Raj Department
Secretariat Building
Hyderabad
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. I. Koti Reddy

COUNSEL FOR THE RESPONDENTS: G.P. for Panchayat Raj (AP)

THE COURT MADE THE FOLLOWING:

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ORDER:
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This writ petition is filed for a mandamus to declare the action of the respondents in withholding payment of bills to the tune of Rs.4,97,573/- and Rs.4,78,138/- of petitioner No.1; Rs.4,97,418/- and Rs.4,95,918/- of petitioner No.2; Rs.9,74,792/- of petitioner No.3; Rs.9,54,000/- of petitioner No.4; and Rs.4,50,084/- of petitioner No.5, as illegal and arbitrary. The petitioners sought for a direction to the respondents to release the bills' amounts with interest at the rate of 24% per annum for the delayed payment, to the petitioners.

The petitioners pleaded that they were entrusted with certain works pertaining to laying of CC roads on nomination basis, under separate agreements entered with them by respondent No.3, that as per the terms and conditions of the agreements, the petitioners have completed the works as per the specifications and that they have been measured and recorded in the measurement books. The grievance of the petitioners is that though they have been personally approaching respondent Nos.2 and 3 for release of the bills, the latter have not been releasing payments.

In pursuance of the notice issued by this Court, respondent No.3 filed a counter affidavit wherein he has admitted entrustment of the works as claimed by the petitioners to them. Respondent No.3 has also admitted completion of the works by the petitioners in full shape and also submitted that he has received measurement books from the petitioners for the following amounts.

1 st petitioner	Rs.9,75,711.00	M.B. No.2008/C/ZP/13, 2015/C/ZP/13
2 nd petitioner	Rs.9,93,336.00	M.B. No.1975/C/ZP/13, 2037/C/ZP/13
3 rd petitioner	Rs.9,74,792.00	M.B. No.2017/C/ZP/13

4 th petitioner	Rs.9,54,009.00	M.B. No.2553/B/ZP/13
5 th petitioner	Rs.45,084.00	M.B. No.1973/C/ZP/13

It is, however, averred in the counter affidavit that as per the Government contract system, the amount of the value of the work will be paid as per the availability of funds, but due to freezing of Special Development Fund (SDF) by the Government from 24-06-2014, respondent No.3 is unable to pay the bills to the petitioners and that as soon as the Government lifts the freezing of SDF, the payments will be made to the petitioners. Along with the counter affidavit, respondent No.3 has filed Memo No.7420/13/A1/DCM.I/2014, dt.24.06.2014. A perusal of this Memo shows that the same was issued by the Secretary to Government (B&IF) addressed to the Director of Treasuries & Accounts, who was requested to freeze the balance of funds available under the SDF for Welfare and Development Activities and Area Development Authority, (Pileru Scheme) immediately, pending further orders. A further request was made to issue necessary instructions to all the District Treasury Officers not to authorize any payments for these funds during the financial year 2014-15.

It is evident from the contents of the above mentioned Memo that the funds from SDF were frozen for the financial year 2014-15 only. As the new financial year has commenced from 01.04.2015, the said Memo has no application. Even otherwise, this Court finds no justification whatsoever in denying payment of bills legitimately due to the petitioners in the guise of freezing of the funds. As the works were executed for public purpose, it is the bounden duty of the State and its functionaries to pay the bills to the persons who have executed the works. Freezing of funds may be due to certain financial constraints by the State. Such a measure cannot be resorted to as a permanent solution to avoid payments to the contractors and other agencies who have spent their personal money in execution of public works. Such a conduct on the part of the State falls foul of fairness in its action.

In the above facts and circumstances of the case, the respondents

are directed to release payments to the petitioners as per the certified measurement books within two months from the date of receipt of this order. As the petitioners have been unduly denied their right to receive the amounts within a reasonable time, the respondents shall pay interest at the rate of 6% per annum from the date of expiry of three months from the date of entering of the measurements in the measurement books. If the respondents fail to make payment within the above stipulated time, they shall pay interest at the rate of 12% per annum instead of at 6% from the time as aforementioned.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.51669 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

05-01-2016

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