

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

WRIT PETITION No.2416 of 2016

Dated 03.02.2016

Between:

M/s.S.V.Enterprises, Visakhapatnam

... Petitioner

and

-
The State of Andhra Pradesh,
represented by its Principal Secretary,
Finance (B & IF) Department,
Hyderabad, and others

...Respondents

Counsel for the petitioner: Mr.P.Chandra Sekhara Reddy

Counsel for respondent Nos.1, 2 and 7: Assistant Government
Pleader

for Finance and Planning (AP)

Counsel for respondent No.3: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.6: Assistant Government Pleader
for Revenue (AP)

Counsel for respondent Nos.4 and 5:--

The Court made the following:___

ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in not paying the admitted bill amounts to the petitioner, under agreement No.28/2013-14/SE(W)/EE-VI/DB, dated 07.05.2013, pertaining to the execution of the work relating to construction of Community Hall and Kalyana Mandapam at Vepagunta in ward No.69 of the Greater Visakhapatnam Municipal Corporation (GVMC), as illegal and arbitrary. The petitioner sought for a consequential direction to respondent No.2 to make payment of Rs.11,30,000/- to it.

The petitioner averred that respondent No.4 has awarded to it civil work, the description of which was given supra, under the aforementioned agreement and that after completion of the work, the quantities were recorded in the measurement books (M-books) and the bill amounts were quantified at Rs.11,30,000/-, which the petitioner is entitled to receive. The petitioner further pleaded that the respondents have withheld the aforesaid amount, by placing reliance on memo No.7420/13/A1/DCM.I/2014, dated 24.06.2014, issued by the State of Andhra Pradesh.

On 28.01.2016, this Court has adjourned the case to enable the learned Government Pleader for Municipal Administration and Urban Development (AP) appearing for respondent No.3 and the learned standing counsel for GVMC appearing for respondent Nos.4 and 5, to obtain instructions. Today, at the hearing, no instructions are reported. However, neither of the learned counsel has disputed the fact that as evident from the Journal Voucher, dated 06.08.2014, issued by the officials of GVMC, the petitioner is entitled to be paid Rs.11,30,000/-. It has also come out that the only reason for withholding of the aforesaid amount is the aforementioned memo.

In W.P.No.40031 of 2015, by order, dated 05.01.2016, this Court, while dealing with the aforementioned memo, held as under:

“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.”

Following the aforesaid order, this Court has disposed of W.P.No.36828 of 2015 on 05.01.2016.

In the light of the aforementioned final orders of this Court, to which this case is squarely attracted, this Writ Petition is also disposed of, in terms of the said two orders, with the direction that respondent No.2 shall release payment of Rs.11,30,000/- (Rupees eleven lakhs and thirty thousand only) to the petitioner, within a period of two months from the date of receipt of a copy of this order, with 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 M-books. If the said respondent fails to make payment within the above stipulated time, it shall pay interest at the rate of 12% per annum, instead of at 6%, from the time as aforesaid.

As a sequel to disposal of the writ petition, W.P.M.P.No.3043 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

03rd February, 2016

GHN

