

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.38541 OF 2012

ORDER:

Heard the petitioner. None appears for the respondents.

The petitioner challenges Communication No.IDC/EE/KNL/DB/AEE/Bantanahal LIS/966/12, dated 04-10-2012 as illegal, without material and arbitrary.

The operative portion of the impugned letter reads as follows:-

“Further it was informed to you if the leakages were not rectified by you before 29.09.2012, the same will be arrested through the beneficiary committee and the amount incurred for arresting the leakages will be recovered from the deposits available with APSIDC besides taking action as per the agreement 1st cited above.

But you have failed to attend the work of rectification of leakages in pressure main and gravity mains before 29.09.2012.

Hence orders are hereby issued for confiscation of the FSD amount of Rs.2,08,784/- available under the agreement 1st cited above for rectification of leakages in pressure main and gravity mains of Banthanahal L I Scheme.

Further you are informed that the defect liability period will start from the date of completion of rectification of leakages of pressure main and gravity mains through the beneficiary committee.”

The petitioner submits that it may be a fact that on or before 29-09-2012 the petitioner could not effect repairs as directed by respondents 1 and 2. But according to petitioner, repairs were effected subsequently and the water leakages were plugged and there is no occasion to confiscate FSD amount of Rs.2,08,784/-.

From the above submissions, it is clear that the petitioner relies upon subsequent compliance of the direction issued through letter dated 22-09-2012 by respondents.

Having regard to above circumstances, this court is of the view that it is a matter for enquiry and investigation by respondents and ends of justice would meet by giving liberty to petitioner to represent to respondents 1 and 2 with details and proof of rectification of the defects pointed out through letter dated 22.09.2012 within six weeks from the date of receipt of a copy of this order, and respondents 1 and

2 are directed to examine, if necessary, call for factual report from the field and decide the representation within a further period of two months thereafter.

The writ petition is disposed of accordingly.

Miscellaneous petitions pending, if any, shall stand closed.

S.V. BHATT, J

Date: 04.04.2016

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