

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.18806 of 2017

ORDER :

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

“...to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the 2nd respondent in applying G.O.Ms.No.125 Water Resources (WRG-GRG) Department dated 29.12.2016 for deducting amount towards cost of sand from the bills of the Petitioners Agreement No.5/2016-17, dated 14.09.2016 as illegal and to declare G.O.Ms.No.125 dated 29.12.2016 so far it affects the Petitioners right as illegal, arbitrary and consequently direct the Respondents to refund the withheld amounts towards sand along with interest @ 18% per annum from the respective due dates of deduction till the date of payment and pass such other or further orders as the Hon’ble Court may deems fit, just and proper in the facts and circumstances of the case.”

Heard learned counsel for the petitioners and learned Government Pleaders for Irrigation and Municipal Administration representing respondents and perused the prayer in the writ petition with supporting affidavit and other material on record.

Leave about the contentions of there is an arbitration clause No.3 pursuant to the Agreement No.5/2016-17 dated 14.09.2016 *interse* between the petitioners and the 2nd respondent in relation to construction work, the main grievance of the petitioners is that G.O.Ms.No.125 dated 29.12.2016 has no application to the petitioners including reference No.(1) covered by Government memo No.3066/M-II(1)/2016-3 dated 04.03.2016 of Industries & Commerce (M.II)

Department, apart from it is subsequent to the said memo dated 04.03.2016. The mutual agreement in question on 14.09.2016 is entered and several aspects not even considered of the excavation charges, loading and unloading huge amount including for transport to incur in deducting the amount of Rs.85.13 per cum for concrete and filling and Rs.152.13 per cum for plastering and mortar use of the sand concerned from the date of 02.03.2016 to deduct and *thereby* the said G.O. and its application is *per se* illegal. It is also the submission that do not refer to the said G.O. dated 29.12.2016 but for the mutual agreement dated 14.09.2016, the petitioner company made a representation to the 3rd respondent on 20.03.2017 in this regard, that was not even attended much less considered by passing any order which initiated them to maintain present writ petition.

It is the submission of learned Government Pleaders for Irrigation and Municipal Administration that they are going to consider and pass a reasoned order, if it is being directed and they have no knowledge about the submission of the said representation dated 20.03.2016.

Having regard to the above, the Writ Petition is disposed of permitting the petitioners to give a fresh representation if at all with any additional facts also by referring to G.O.Ms.No.125 dated 29.12.2016 within one week from the date of receipt of copy of this order and respondents shall dispose of the same

within four weeks therefrom, after hearing by passing a reasoned order. If the petitioners have any further grievance, it is left open to them to agitate the same in accordance with law.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

Dr. B. SIVA SANKARA RAO, J

Date:30-06-2017

pab



HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.18806 of 2017

DATE: 30.06.2017



pab