

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION Nos.42861 and 42893 of 2015

COMMON ORDER:

Since these two writ petitions are similar, this Court deems it appropriate to dispose of the same by this common order.

The grievance of the petitioner in these writ petitions is non-payment of final bill amounts relating to the works executed vide agreement No.05 DC/2014-15, dated 20.05.2014, and agreement No.10 DC/2014-15, dated 19.06.2014.

Heard Smt. K. Sesharajyam, learned Senior counsel, appearing for Sri K.V. Siva Prasad, learned counsel, on record for the petitioner and the learned Government Pleader for Irrigation and Command Area Development.

Today, when the matters are taken up, letter bearing No.SE/IC/DOW/AB/MCI/519M, dated 14.03.2017, addressed by the Superintending Engineer, Irrigation Circle, Dowlaiswaram, to the office of the learned Government Pleader for Water Resources Department, High Court, Hyderabad, is placed on record by the learned Government Pleader. In the said letter it is stated that the Government vide Memo No.302832/Vig.II/V&E-2/2016-1, dated 25.07.2016, issued instructions to make payments to the petitioner agency and to report compliance, but the Executive Engineer, Quality Control Division, Dowlaiswaram, is not issuing the Quality Control Certificates for the works covered by the writ petitions despite receipt of the minutes of the meeting. It is further stated that the Chief Engineer, Godavari Delta System, Dowlaiswaram was also addressed by the office of the Superintending Engineer,

Irrigation Circle, Dowlaiswaram vide letter No.216M, dated 30.01.2017, with regard to the present issue with a request to issue instructions to the Executive Engineer, Quality Control Division, Dowlaiswaram for issuing Quality Control Certificates for the petitioner agency works and the same are still awaited. It is also stated that the Chief Engineer, Quality Control Wing, Dowlaiswaram was also addressed by the Chief Engineer, G.D.S., Dowlaiswaram vide letter, dated 03.02.2017, to issue suitable instructions to the officers concerned to verify and issue Quality Control Certificates to avoid legal complications, but the Quality Control Certificates are still awaited from the Executive Engineer, Quality Control Division, Dowlaiswaram till date. It is also stated that the final bills are kept ready with the Executive Engineer, Godavari Head Works Division, Dowlaiswaram for want of Quality Control Certificates from the Executive Engineer, Quality Control Division, Dowlaiswaram.

A copy of the agreement entered into by the respondent authorities with the petitioner is placed on record and clause 19.0 of the said agreement reads as under:

“Payment of Bills:- The contractors will be permitted to submit their work bills once in a month and payment will be made after proper check of quantity and quality within a reasonable time limit. The final payment of the contractor should not be delayed for want of certificate from the quality control staff.”

It is very much manifest from the above clause that the final payment to the contractor should not be delayed for want of certificate from the quality control staff. Therefore, the reasons assigned by the respondents for not clearing the final bill amounts, in the considered opinion of this Court, is highly irrational and cannot be approved.

For the aforesaid reasons, the writ petitions are allowed, directing the respondents to pay the final bill amounts to the petitioner in respect of the works covered by agreement No.05 DC/2014-15, dated 20.05.2014, and agreement No.10 DC/2014-15, dated 19.06.2014, within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any pending, shall stand closed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.03.2017
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