

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.16674 OF 2012

ORDER:

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

“to issue an appropriate writ, order or directions more particularly one in the nature of "Writ of Mandamus" declaring the action of respondents, i) in deducting Detailed Project Report charges from the work bill of the petitioner which is not form part of the contract, ii) in adopting lessor payment of price escalation taking the basis of date of payment of work bill without any authority of law instead of the basis of date of measurement as required under G.O.Ms.No.35 TR&B Dept., dt:28.02.2006, G.O.Ms.No.94 TR&B Dept., dt:16.04.2008 and G.O.Ms.No.35 TR&B Dept., dt:30.01.2009, and iii) Non payment of interest for the amount unjustly withheld from the work bill of the petitioner, as arbitrary, illegal, unconstitutional contrary to the GOs and also contrary to the Judgements of this Hon'ble Court AND Consequently direct the respondents to refund the 1) DPR charges, 2) Balance amount of price escalation amount and 3) Interest on the unjustly withheld amount at 15% P.A. to the petitioner.”

2. It is stated in the affidavit filed in support of the petition that respondent No.3 issued a notice inviting bids on 30.04.2007 for the work namely Providing BT on Road from NH.7 to Jhari, MP Talamadugu of Adilabad District Package No.AP VI-0107. The petitioner company participated in the tender process and became successful, being the lowest tenderer. The agreement for the work in question has been concluded between the petitioner and respondent No.3 on 12.11.2007 and pursuant to the said

agreement, the petitioner has executed the work without any compromise in the quality and quantity and completed the work in all respects, but the respondents have deducted the Detailed Project Report charges from the work bill of the petitioner, which is not form part of the contract; adopted lesser payment of price escalation taking the basis of date of payment of work bill without any authority of law instead of the basis of date of measurement, as required under the aforementioned Government Orders, and also not paid the interest for the amount unjustly withheld from the work bill of the petitioner. Hence, he filed the present writ petition.

3. Heard and perused the material available on record.

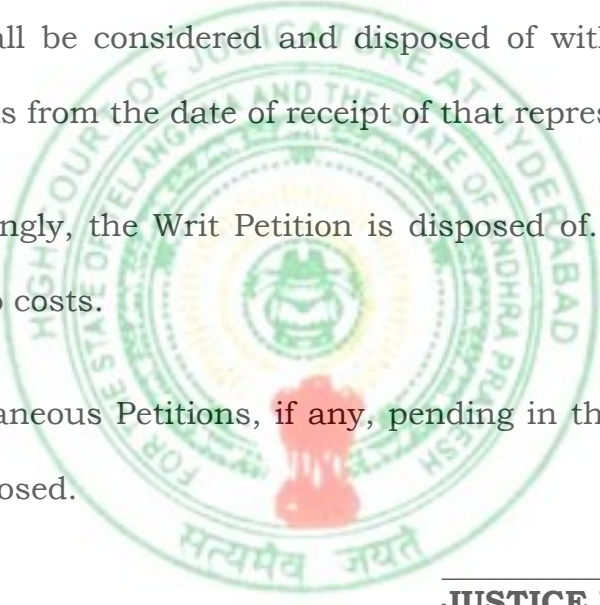
4. Admittedly, there is a dispute between the petitioner and respondent No.3 regarding the payment of bills for the work executed under the contract and also the calculation of the amounts to be paid to the petitioner. Further, it is the case of the petitioner that final bill has also been prepared, but the respondents have not paid the balance amount. According to the petitioner, the calculations of the respondents are not in accordance with the aforementioned Government Orders issued by the Government. Further, it is submitted by the learned counsel for the petitioner that he has already made a representation to respondent No.3 in detail and also issued a legal notice to the respondents herein but the same has not been considered till date.

5. Considering the facts and circumstances of the case and the grievance of the petitioner, this Court is of the view that a necessary direction can be given to respondent No.3 herein, who is

the competent authority to decide the issue. Since the matter pertains to the year 2012, respondent No.3 is hereby directed to consider the representation of the petitioner basing on the aforementioned Government Orders and also after giving an opportunity of hearing to the petitioner and dispose of the same within a period of eight (8) weeks from the date of receipt of a copy of this order. If no such representation is pending, the petitioner shall make a fresh representation to the respondents along with all material and relevant Government Orders on which he relies upon on or before 25.08.2017 and on such representation being made, the same shall be considered and disposed of within a period of eight (8) weeks from the date of receipt of that representation.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE RAJA ELANGO

Date : 03.08.2017
AMD

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