

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.18303 OF 2011

ORDER:

The case of the petitioner-M/s.Krishna Agencies, is that the 2nd respondent-A.P.Scheduled Tribe Cooperative Finance Corporation Limited, was came into existence to cater the needs of downtrodden viz., the members of Scheduled Tribe community including their respective avocations. It has identified the petitioner agency for supply of submersible pumpsets for the benefit of the members of the ST community in Guntur District and that the District Collector is the chairman of the said Corporation. The said Corporation through its Chairman has placed orders for supply of Irrigation pumps and in pursuance to the said purchase orders, the petitioner agency supplied pump sets by raising invoices. After the pump sets are supplied and erected, the concerned Mandal Development Officer makes a group inspection and reports to the 2nd respondent Corporation. In respect of all the pump sets that have been supplied and installed by the petitioner concern, the concerned Mandal Development Officer inspected the same and reported compliance in favour of the petitioner to the District Collector who is incidentally the Chairman of ST Corporation. Thereafter, the Chairman, ST Corporation as District Collector has paid 50% of the amount to the petitioner agency and the remaining 50% amount has not yet been released inspite of several correspondence by the petitioner.

Despite the supplies made in the year 1998-1999, till today, the balance amount due to the petitioner has not been paid. It is further stated that the 5th respondent addressed letter dated 11.03.2011 to the 4th respondent to release the undisbursed subsidy amount of Rs.11,53,680/- towards supply of 76 pump sets by the petitioner to the ST beneficiaries in Bollapalli Mandal. The petitioner also made several representations for release of the said balance amount. Challenging the inaction of the respondents in paying an amount of Rs.11,53,680/-, present writ petition is filed.

The 3rd respondent filed counter affidavit admitting that the petitioner has supplied and erected 76 submersible pump sets worth Rs.23,07,360/- for which the ST Corporation has already paid an amount of Rs.11,53,680/- (50%), towards DTG subsidy (30%) and Margin Money (20%) and the remaining amount of Rs.11,53,680/- has to be paid by the respondents 4 to 6 as per the norms approved by the then Collector & District Magistrate, Guntur. It is also stated that the 3rd and 5th respondents have already recommended the amount due to the petitioner to the 4th respondent. It is further stated that the 5th respondent has addressed a letter to the 4th respondent seeking permission to release the undisbursed amount of Rs.11,53,680/-, and finally sought for dismissal of writ petition against respondents 2 and 3.

The 6th respondent filed counter affidavit on his behalf and on behalf of 5th respondent admitting that the petitioner supplied 76 submersible pumpsets for the benefit of the members of the ST Community of the Guntur District by raising invoices and also payment of due amount to the petitioner. It is stated that the MPDO of Bolapalli Mandal also reported to the ST Corporation that the petitioner supplied pumpsets by raising invoices. It is submitted that the 6th respondent has to release the subsidy amount subject to availability of funds under Head of Account; that the Government of India abolished IRDP scheme on 31.03.1999; that no funds are available under subsidy and that further action is to be initiated by the ST Corporation, Guntur, as such, the 6th respondent has not released the subsidy amount. It is also stated that the 6th respondent repeatedly addressed letters to the District Tribal Welfare Officer, Guntur (3rd respondent) vide letters dated 06.02.2006, 08.06.2006 and 30.10.2009 stating that there is no subsidy provision as per G.O.Ms.No.83, dated 21.03.2005 of Panchayat Raj and Rural Development Department, A.P.Hyderabad for release of subsidy to these minor irrigation units, as the IRDP Scheme abolished on 31.03.1999, but, the District Tribal Welfare Officer, repeatedly requesting for payment of 50% of subsidy without addressing to their Head of the Department for settlement of balance amount from their own funds. It is further stated that the 6th respondent addressed letter dated 11.03.2011 to the 4th respondent seeking

permission to release the subsidy amount of Rs.11,53,680/- from Swarnajayanti Gram Swarozgar Yojana (SGSY scheme) funds; and that as there is no such provision under SGSY scheme the payment of subsidy does not arise. It is further stated that the District Tribal Welfare Officer, Guntur may be issued direction to release the due amount from their own funds as the IRDP scheme was abolished and no budget provision made to meet this kind of subsidies under SGSY programme which was introduced on 01.04.1999.

Heard learned counsel for the petitioner who submits that the petitioner has supplied 76 pump sets to the members of ST community in Guntur District and the same have been accepted and beneficiaries are using the same.

On the other hand learned counsel for respondents 2 and 3 submits that as per the scheme, out of total amount of Rs.23,07,360/-, the 2nd respondent has already paid 50% of the amount i.e. Rs.11,53,680/- towards DTG Subsidy (30%) and Margin Money (20%) and the remaining amount of Rs.11,53,680/- shall be paid by the respondents 4 to 6 as per norms approved by the then Collector & District Magistrate, Guntur.

In this case the supplies made by the petitioner and the amount payable to the petitioner were not disputed by any one of the respondents. The 2nd and 3rd respondents in their counter admitted that the petitioner supplied 76 submersible pump sets

worth Rs.23,07,360/- to the ST beneficiaries; out of which they have already paid 50% of the amount i.e.Rs.11,53,680/- and that they have already addressed letters to the 4th respondent for release of remaining 50% amount. The 5th and 6th respondents also admitted payment of Rs.11,53,680/- to the petitioner towards supplies made by the petitioner to the ST beneficiaries. The grievance of the respondents 4 to 6 is that lack of funds, as the IRDP scheme under which the petitioner made supplies to the ST beneficiaries was abolished and that there is no provision under SGSY programme to pay the subsidy amount.

When once the respondents identified the petitioner for supply of pumpsets and when the petitioner supplied pumpsets to the ST beneficiaries, it is the responsibility of the respondents to pay the said amount to the petitioner and in fact the 2nd and 3rd respondents also addressed letter to the 4th respondent to take action for release of the subsidy amount of Rs.11,53,680/- to the petitioner. Lack of funds and closure of scheme does not disentitle the petitioner from receiving the due amount. The reasons stated by the respondents cannot be a ground for refusing to pay the amount due to the petitioner. The petitioner cannot be deprived of the said amounts for which he made supplies.

In view of the aforesaid facts and circumstances, the writ petition is allowed and the respondents are directed to release

the balance amount of Rs.11,53,680/-, in favour of petitioner.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

19.06.2017
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