

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.37500 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“to declare the action of the respondent in not considering the petitioner representation dt:4-11-2017 to pay admitted amount towards supply of water to the un reserved area of the respondent municipality from 21-06-2016 to 15-10-2017 as illegal, arbitrary and in violation of Principles of Natural justice and in violation of Art.14 of the Constitution of India and consequently direct the respondent to consider the petitioner representation dt:4-11-2017 and to pay the admitted amount forthwith in the interest of justice.”

[Reproduced verbatim]

2. I have heard the submissions of Sri V. Sreemannarayana, learned counsel appearing for the petitioner, and of Sri Md. Saleem, learned Standing Counsel appearing for the respondent municipality. Perused the material record.

3. While reiterating the submissions in the writ petition, learned counsel for the petitioner further submits as follows:

‘Pursuant to the tender notice for supply of water to different wards of the respondent municipality, the petitioner supplied water and completed the work entrusted to the petitioner. The total amount of Rs.1,19,01,120/- was due and payable to the petitioner by the respondent municipality. However, from the said amount, Rs.48,40,385/- was only paid to the petitioner. The balance amount due and payable, therefore, is Rs.70,60,735/-. The said amount is not paid by the respondent municipality though the work was done.

For doing the said work, the petitioner engaged 75 drivers and hired vehicles on lease. Due to non-payment of the said amount, not only the petitioner but also the families of the drivers are suffering, as in turn the petitioner could not pay them their dues for no fault of the petitioner. The service connections obtained by the petitioner including the one obtained for residential use were disconnected. Therefore, a direction may be given to the respondent municipality to pay afore-stated balance amount to the petitioner.'

4. Learned Standing Counsel appearing for the respondent municipality, on instructions, would submit as follows: 'The amount actually payable approximately is Rs.88.44 lakhs and that from out of the said amount, Rs.51.29 lakhs was already paid in different spells. Even without a notice asking for the balance amount, the petitioner approached this Court. The respondent municipality is not having sufficient funds and is, therefore, unable to pay the balance amount due and payable. If some time is granted, the admitted amount would be paid to the petitioner.' A time of one (01) month may be granted is the final submission of the learned Standing Counsel for the respondent municipality.

5. In view of the difference in the balance amount due and payable, learned counsel for the petitioner would submit that a direction may be given to the respondent municipality to pay the admitted balance amount, leaving it open to the petitioner to submit a representation insofar as the difference of amount, which according to the petitioner is still due and payable.

6. Recording the submissions, the Writ Petition is disposed of directing the respondent municipality to pay the admitted balance

amount in two spells i.e., Rs.17,00,000/- within a period of ten (10) days from today and the remaining Rs.20,00,000/- and odd within a period of another two (02) weeks thereafter. Liberty is reserved to the petitioner to submit a representation to the respondent municipality as regards the disputed balance amount, which is due and payable to the petitioner according to the calculation of the petitioner. It is made clear that in case any such representation is submitted by the petitioner, the authority concerned shall consider and dispose of the said representation in accordance with the procedure established by law within a period of two (02) weeks from the date of submission of such representation by the petitioner.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.



JUSTICE M. SEETHARAMA MURTI

Date: 14th November, 2017

Note: Issue C.C. today.

(B/o.)
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