

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.7405 OF 2018

ORDER:

Heard the learned counsel for petitioner and Sri Ancha Panduranga Rao, learned Standing Counsel for 2nd respondent.

2. On 07.03.2018 learned Standing Counsel sought time for written instructions; the matter was posted to 16.03.2018; on which date, again he sought time and the matter was posted to 27.03.2018. On 27.03.2018, on payment of costs of Rs.500/-, ten (10) days time was granted to file counter-affidavit or to get instructions making it clear if no counter-affidavit is filed by 05.04.2018, right of 2nd respondent shall stand forfeited.

3. Today when the matter is listed, it is pointed out by the Registry that no costs as directed by the Court have been paid. Also no counter-affidavit is filed by 05.04.2018. Therefore, the right of the 2nd respondent to file counter-affidavit stands forfeited.

4. Petitioner's grievance is that petitioner is a civil contractor and proprietor of the firm which deals with supply of tents, mike sets, chairs and sofa sets *etc.*, on hire basis. The 2nd respondent invited tenders for supply of the said items for conducting various religious programmes and other functions. Petitioner has been providing the said articles at the time of such functions from 2008. Petitioner had paid Earnest Money Deposits (EMDs) at the time of submitting the tenders right from 2008 and also making First Security Deposits (FSDs) every time the work was handed over to him from 2008. After completion of the programmes the 2nd respondent however did not return the said EMDs or the FSDs.

5. The petitioner contends that a sum of Rs.10,95,556/- has been accumulated by 22.03.2017 and in spite of several requests and even a written representation on 20.11.2017 giving the entire list of works allotted and EMDs and FSDs paid by him, no amount has been paid till date.

6. Petitioner contends that this action of the 2nd respondent is illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution and amounts the 2nd respondent to unjustly enriching itself.

7. The liability to pay above amount to the petitioner has not been denied by the 2nd respondent by filing counter-affidavit. Even otherwise, once the work is satisfactorily done, the EMD and the FSD amounts deposited by the petitioner every time such work is handed over to him ought to be refunded. Otherwise, it would amount to unjust enrichment.

8. Therefore, the Writ Petition is allowed and the 2nd respondent is directed to repay the petitioner a sum of Rs.10,95,556/- with interest at 9% *p.a.* till the amount is paid. The 2nd respondent is granted four (4) weeks time to make the said payment to the petitioner. The 2nd respondent is also directed to pay costs of Rs.5,000/- to the High Court Legal Services Committee.

9. Consequently, miscellaneous applications pending, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 27.04.2018.
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