

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No. 13809 of 2008

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed seeking verbatim the following relief/s:

I. to issue an order or a direction with more particularly one in the nature of a Writ of Mandamus declaring GOMs.No.98(I&CAD)Dept, dated 5-7-2000 as illegal, arbitrary and contrary to the terms and conditions of the agreement entered into by the Petitioner is presently executing the execution of the project of 'Alimineti Madhava reddy Project" of Investigation, Design of Tunnel-1 and tunnel-2 from Neelam Sanjeevareddy project Reservoir "Srisailam Reservoir in Mahabubnagar and Nalgonda District, Andhra Pradesh on EPC basis vide agreement no.54SE/2005-06 dated 25-8-2005 and set aside the same.

II. to declare that the action of the respondents 3 to 5 effecting recovery towards NAC as illegal and arbitrary and consequently direct the respondent not to effect recovery from the running bills in pursuance of GOMS.No.98(I&CAD) Dept.dated 5-7-2000'

I have heard the submissions of the learned counsel for the petitioner, of the learned Government Pleader for Irrigation and Command Area Development, appearing for respondents 1 to 4. On 29.08.2018, on behalf of Sri M. Papa Reddy, learned counsel, a representation was made that the 5th respondent has taken away the record along with 'no objection vakalat' and that the said learned counsel is no longer appearing for the 5th respondent. Today, neither the 5th respondent appeared before this Court nor any other counsel entered appearance for the 5th respondent.

No counters are filed by the contesting respondents.

Learned counsel for the petitioner submitted that the subject matter and the issue involved in the present writ petition are squarely covered by the common order, dated 19.07.2005 in WP.Nos.23750, 23757, 23784, 23806 of 2000 and 1370, 1383 & 4862 of 2001. A copy of the said common order is placed on record.

Suffice if it is mentioned that in one of the writ petitions in the above batch, viz., WP.No.23750 of 2000, the relief claimed is as follows:

‘..to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring G.O.Ms.No.92 Transport, Roads & Buildings (B.I)Department dt.19.5.1998 as illegal, arbitrary and contrary to the terms and conditions of the agreement entered by the petitioner for executing the works in Roads & Buildings Department and set aside the same and consequently declare that the circular Memo No.ENC (R&B)/ADMN/Peshi/IICT/98 dt.25.5.1998 of the 2nd respondent as illegal and arbitrary and consequently direct the respondents to refund the amount recovered from the petitioner’s bills pursuance of G.O.Ms.No.92 Transport, Roads & Buildings (B.I) Department dt.19.5.1998 and the circular Memo of the 2nd respondent dt.25.5.1998.’

A perusal of the copy of the common order of this Court in the afore-said batch of writ petitions would show that this Court quashed G.O.Ms.No.92, Transport, road and Buildings (B.I) Department, dated 19.5.1998. However, the challenge in the present writ petition is to G.O.Ms.No.98(I&CAD)Dept, dated 5-7-2000. It is not in dispute that the terms of the present GO impugned in this writ petition are para materia with the G.O., which was quashed by the common order rendered in the batch of writ petitions afore-stated. Therefore, the reasoning in the afore-stated common order squarely applies to the facts of this case wherein the challenge is to a G.O with the same terms.

It is also to be noted that following the common order in the afore-stated batch of the writ petitions, this Court also disposed of W.P.No.1630 of 2008, by an order, dated 18.03.2008.

Since the issue raised in this writ petition is squarely covered by the afore-stated common order, this Writ Petition is allowed in terms thereof and for the reasons alike as were mentioned in the afore-stated common order. Accordingly, the respondents are directed to refund the amounts to the petitioner, if any, already recovered from the bills of the petitioner.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



M.SEETHARAMA MURTI, J

07.09.2018

Note: Registry is directed to enclose a copy of the common order, dated 19.07.2005, in WP.No.23750 of 2000 and batch to this order.

Vjl