

5th October,
2023
(AK)
11

W.P.A 20469 of 2023

Lokenath Builders Private Limited and another
Vs.
Rail Vikas Nigam Limited and others

Mr. Arunava Ghosh
Mr. Puspall Chakraborty
Ms. Srijita Nath

...for the petitioners.

Mr. Avishek Guha
Mr. A. Chopra

...for the respondent no. 3.

1. The petitioners were awarded work orders by respondent no.3- Gammon Engineers and Contractors Pvt. Ltd. for a project assigned to be done by respondent no. 3 by the respondent no.1-Rail Vikas Nigam Limited (RVNL).
2. Subsequently, there was an arrangement at the behest of respondent no.3, to which the respondent no.1 acceded, that direct payments would be made for the work done by the petitioners to the petitioners/contractors.
3. Learned counsel for the petitioners relies on the 'comfort letter' dated May 21, 2019 and the communication annexed at page-61 of the writ petition dated July 13, 2020 on such score.

4. However, subsequently several representations were made by the petitioners to the RVNL (respondent no.1), for disbursal of the amounts due to the petitioners but to no effect.

5. The petitioners seek a disbursal of the money on consideration of the representations of the petitioners.

6. Learned counsel for the respondent no.3 concurs with the arguments of the petitioners on principle as regards the arrangement between the parties.

7. It is further added by learned counsel for the respondent no.3 that in the meantime the petitioner had made an application for arbitration before the MSME Council. However, since the petitioner was not registered as an MSME, the same was rejected.

9. Considering the submissions of the parties, it is found that the claim of the petitioners was rejected by the MSME Council on a technical score.

10. As such, there is no bar to the respondent no.1 disbursing the amounts actually due to the petitioners.

19. Hence, WPA 20469 of 2023 is disposed of by directing respondent nos.1 and 2 to consider the representations made by the petitioner for disbursal of the alleged dues of the petitioners for work done by the petitioners for respondent no.3 on behalf of the respondent no.1.

20. The representations annexed to the present writ petition shall be considered by the respondent no.1 as expeditiously as possible, positively within four weeks from the date of communication of this order to the respondent no.1.

21. Immediately thereafter, the respondent no.1 shall intimate in writing the outcome of such consideration to the petitioners, within a week thereafter.

22. After the expiry of the said five weeks, the respondent no.1 shall endeavour to disburse all actual dues to the petitioners, also as expeditiously as possible, positively within a month thereafter.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)