

9.4.2024
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WPA 22295 of 2016
M/s. MAA Jahara Enterprise & Anr.-vs-Bharat Sanchar Nigam Ltd. & Ors..
with
WPA 22298 of 2016
M/s. Sen Enterprise & Anr-vs-BSNL & Ors.

Mr. P. Sinha
Mr. Soham Kr. Roy
Ms. Sannidhya Datta
Ms. A. Roy
...for the petitioners.

The writ petitioners are aggrieved by the inaction on the part of the respondent authority, by not issuing the billed amount for the completed work done in terms of the work orders issued in favour of the writ petitioners.

The fact is that the writ petitioners were engaged for Laying Optical Fibre Cable on behalf of the respondent authorities, in the specified locality. Three work orders were issued for Laying Optical Fibre, i.e. dated 16th May, 2006, 23rd February, 2008 and 26th March, 2009, for three different locality.

After completion of work, the writ petitioners have been issued certificate of completion of work (A/T certificate, in short) with respect to the two work orders i.e. dated 16th May, 2006 and 23rd February, 2008.

The petitioners have stated that, with respect to the other work order issued on 26th March 2009, the works have been completed and the system is now ready for usage. The same is handed to the respondent authority after completion of work.

Under such circumstances, the writ petitioners have submitted bills for the completed works. The amount of bill for the first two work orders is Rs. 5,51,348/- The amount of bill for the last work order is Rs. 11,10,733/-.

The writ petitioners say that said bills have been resubmitted also for more than once, to the respondent authority, but to no avail.

Mr. Sinha, learned advocate is representing the petitioners and has submitted that by not allowing the said bills to be disbursed in favour of his clients, the respondent authorities have acted in violation of the stipulation in the contract entered into between them and also in violation of the vital rights of the writ petitioners for carrying on trade and business. He insists that the bill amount, as above, may immediately be released by the respondent authorities, along with the appropriate interest for delayed payment.

Record reveals that on the last occasion, Mr. Mukherjee had represented the respondent authorities. Today, however, no one is appearing for the said respondent, even on the second call.

Hence, the matter is taken up for hearing and adjudication, in absence of representation by the respondent authorities.

On perusal of the record as well as consideration of the submissions made on behalf of the writ petitioners, it appears that pursuant to the work orders issued in favour of the writ petitioner no. 1, the work of Laying Optical Fibre Cable at different locality was completed by the writ petitioner no. 1.

After completion of the work, the respondent authorities have issued completion certificate (A/T Certificate in short), in favour of the writ petitioners, with respect to the works done pursuant to the first two work orders, as mentioned above.

It further reveals that the works, pursuant to the work order dated 26th March, 2009 has also been completed and handed over at the disposal of the respondent authorities.

Under such circumstances, the writ petitioners would be entitled to the cost of the work in terms of the agreement entered into between the parties. The said amount appears to be Rs. 5, 51,348/- with respect to the first two work orders and Rs. 11,10,733/- for the terminal one, totalling an amount of Rs. 16,62,081/-.

Admittedly, the said amount of bill as raised by the present petitioner is not disbursed as yet by the concerned authority. No reason has been shown, for non-payment of the bill amount, much less any cogent reason. Entitlement of writ petitioners to the said bill

amount is also undisputed. Under such circumstances, the purported inaction on part of the respondents appear to be motivated, biased and arbitrary.

A state action, arbitrary in nature and counterproductive to fair play and rule of law is to be redressed by this Court, in exercise of its power under Article 226 of the Constitution of India.

Hence, this writ petition is allowed and disposed of with the following directions:

- i) The respondent authorities shall immediately release a total amount Rs. 16, 62,081/- in favour of the writ petitioners.
- ii) The respondent authorities shall also pay simple interest @ 6% per annum, on the said amount of outstanding bills, with effect from the date of bill, till the date of actual payment and disburse the same to the writ petitioners along with principal bill amount.
- iii) The entire exercise, as above, shall be completed by the concerned respondent authorities within a period of four weeks from the date of service of copy of this order.

The writ petitions being WPA No. 22295 of 2016 and WPA No. 22298 of 2016 along with connected applications, if any, are disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rai Chattopadhyay, J.)