APHC010414082024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3459]
(Special Original Jurisdiction)

MONDAY ,THE SEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 21124/2024

Between:

K N V S Manikyala Rao

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. CHERUVU CHAITANYA BHARGAVA SARMA

Counsel for the Respondent(S):

1. GP FOR MUNCIPAL ADMN URBAN DEV
2. GP FOR IRRIGATION
3. GP FOR FINANCE PLANNING

The Court made the following:

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

> *"…to issue an appropriate writ, order or direction mostly one which is in the nature of a writ of mandamus declaring the action of the respondents in not paying an amount of Rs.54,20,032/- due to the petitioner even after finalizing the bills payable in relation to the work executed i.e., Modernization of Godavari Western Delta System – Protection of work of eroded bank on Valluru Medium Drain 300 mts., length R/s bet. Chinthadibba to Illapakurru (V), Elamanchili (M) in West Godavari District" as illegal and arbitrary and consequently to direct the respondents to make the payment of full amounts due to the petitioner without any deductions/recoveries in respect of execution of works carried out by the petitioner and with reasonable interest for delayed period forthwith and pass such other order or orders….."*

2. In spite of adjourning the matter several times, the respondents have not filed their counter affidavit.

3. The case of the petitioner is that the petitioner has participated in the tender process and stood as a lowest bidder. The 3rd respondent has entered into an agreement with the petitioner vide agreement No.24/SE/2018-19, dated 15.05.2018, for execution of work of Modernization of Godavari Western Delta System – Protection of work of eroded bank on Valluru Medium Drain 300 mts., length R/s bet. Chinthadibba to Illapakurru (V), Elamanchili (M) in West Godavari District. The petitioner has completed the work. The 4th respondent having

been satisfied with the work done recorded in M-book books and passed final bill for net amount of Rs.47,28,257/-.

4. Learned counsel for the petitioner submits that the petitioner has borrowed amounts from third parties to execute the work and is paying huge interest. Though the final bill was passed long back, the bill amount is not yet paid to the petitioner. The learned counsel for the petitioner further submits that in similar circumstances, this Court in ***S. Srinivas Vs. State of Andhra Pradesh and others***[1] held as under:

> *"21) In the considered opinion of this Court, withholding the amount for which the petitioner is legitimately entitled is nothing but depriving the petitioner. Due to illegal action of non-payment of the amounts promptly by clearing the bills submitted by the petitioner after execution of works, the petitioner could not feed and see the welfare of his family properly and he could not make payments to his employees/workers and he could not make payments to the material suppliers and he has to pay interests for the debts incurred by him for execution of works. Due to this situation, petitioner's respect and dignity in the society will be deteriorated.*
>
> *22) As such this Court holds that withholding the amount, for which the petitioner is legally entitled, is illegal, arbitrary, and unjust and violative of Article 21 of the Constitution of India.*
>
> *24) A larger bench of the Hon'ble Apex Court in Secretary, Irrigation Department, Government of Orissa and others V. G.C.Roy opinied as extracted hereunder:*
>
> *"A person deprived of the use of money to which he is legitimately entitled has right to be compensated for the*

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deprivation, call it by any name. It may be called interest, compensation or damages".

25) The High Court of Andhra Pradesh in J.Devendra Reddy V Kakatiya University and another held that withholding of the amount payable to the petitioner for the contract works, constitutes patent arbitrariness on the part of the respondents."

5. This Court has observed that though the work was completed and the bill was passed long back, the respondents have not released the amount so far on the ground of insufficiency of funds. Since there is no dispute with regard to the execution of work and the bill amount, the respondents should pay the bill amount on "first done first paid" basis. Apart from that, priority or preference should be given to those whose works are below Rs.50.00 lakhs as they are the affected persons.

6. In view of the foregoing discussion and in the light of the law laid down by this Court in ***S. Srinivas*** case referred supra, the Writ Petition is disposed of with the following directions:

i) The respondents are directed to clear the bill submitted by the petitioner and release the net amount of Rs.47,28,257/- (Rupees forty seven lakh twenty eight thousand two hundred fifty seven only) in favour of the petitioner within four (4) weeks from the date of receipt of a copy of this order with interest at 12% p.a.

ii) The interest shall be computed from the date of expiry of one month from the date of submission of the bill by the petitioner till the date of payment.

7. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

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JUSTICE SUMATHI JAGADAM

7th April, 2025
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THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO.21124 of 2024

7th April, 2025

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