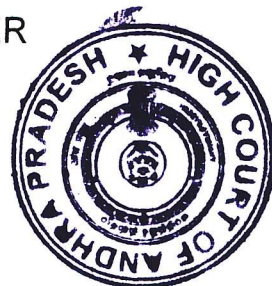


IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE MS JUSTICE B S BHANUMATHI



WRIT PETITION NO: 19327 OF 2024

Between:

Pasupuleti Sambasiva Rao, S/o Pasupuleti Jagannadhsim. Age 58 years, Occ Contractor, R/o. 1-15, Chejarla, Opp. Elementary School, Nakarikallu Mandal, Chejarla, Palnadu District.

...PETITIONER

AND

1. The State of Andhra Pradesh, rep by its Principal Secretary, Water Resource Department, Secretariat Buildings, at Velagapudi, Amaravati, Guntur District.
2. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Finance and Planning, Secretariat Buildings, Velagapudi, Amaravati, Guntur District
3. The Executive Engineer, Irrigation Division, Guntur, Guntur District.
4. The Director, Pay and Accounts, Finance Department, Anjaneya Towers, Ibrahimpatnam, Vijayawada, Krishna District.
5. Pay and Account Officer (PAO), Works and Accounts, Vijayawada, Krishna District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the

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nature of a Writ of Mandamus or any other appropriate Writ, Direction or Order questioning the action of the respondents in not paying admitted bills an amount of Rs. 12,59,461/- to the petitioner towards the work O & M - Repairs and Removal of weed from Km 22.625 to Km 31.000 of Guntur Channel and its distributaries in between Km 23.400 to Km 31.000 and Vejendla Major of Guntur Channel for the year 2020-21 under the agreement 2/2020-21, dated 18.06.2020 even after finalizing the Bill, as illegal and arbitrary and violative of articles 14, 16 and 21 of constitution of India and consequentially direct the respondents to pay above said bills to petitioner forthwith.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to pay the admitted bills for an amount of Rs. 12,59,461/- to the petitioner towards the work O & M - Repairs & Removal of weed from Km 22.625 to Km 31.000 of Guntur Channel and its distributaries in between Km 23.400 to Km 31.000 and Vejendla Major of Guntur Channel for the year 2020-21 under forthwith, pending disposal of Writ Petition.

Counsel for the Petitioner: SRI GOUTHAMI SURAPAREDDY

Counsel for the Respondent Nos. 1 & 3: GP FOR IRRI AND CAD

Counsel for the Respondent Nos. 2,4 & 5: GP FOR FINANCE AND PLANNING

The Court made the following: ORDER



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

[3311]

MONDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

WRIT PETITION NO: 19327/2024

Between:

1. PASUPULETI SAMBASIVA RAO, S/O PASUPULETI JAGANNADHSIM.
AGE 58 YEARS, OCC: CONTRACTOR, R/O.1-15, CHEJARLA, OPP
ELEMENTARY SCHOOL, NAKARIKALLU MANDAL, CHEJARLA,
PALNADU DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL
SECRETARY, WATER RESOURCE DEPARTMENT, SECRETARIAT
BUILDINGS, AT VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.

2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, DEPARTMENT OF FINANCE AND PLANNING,
SECRETEIRIAT BUILDINGS, VELAGAPUDI, AMARAVATI, GUNTUR
DISTRICT.

3. THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, GUNTUR,
GUNTUR DISTRICT.

4. THE DIRECTOR, PAY AND ACCOUNTS, FINANCE DEPARTMENT,
ANJANEYA TOWERS, IBRAHIMPATNAM, VIJAYAWADA, KRISHNA
DISTRICT.

5. PAY AND ACCOUNT OFFICER PAO, WORKS AND ACCOUNTS,
VIJAYAWADA, KRISHNA DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner:

1. GOUTHAMI SURAPAREDDY

Counsel for the Respondent(S):

1. GP FOR IRRI AND CAD

2. GP FOR FINANCE PLANNING

The Court made the following:**ORDER:**

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of a Writ of Mandamus or any other appropriate writ, direction or order questioning the action of the respondents in not paying admitted bills an amount of Rs.12,59,461/- to the petitioner towards the work O and M - Repairs and Removal of weed from Km 22.625 to Km 31.000 of Guntur Channel and its distributaries in between Km 23.400 to Km 31.000 and Vejendla Major of Guntur Channel for the year 2020-21 under the agreement 2/2020-21, dated 18.06.2020 even after finalizing the bill, as illegal, arbitrary and violative of articles 14, 16 and 21 of constitution of India and consequentially direct the respondents to pay above said bills to petitioner forthwith...”

2. It is the contention of the petitioner that even though the respondents admitted that the petitioner is entitled to the aforesaid amount, no payment is made. The petitioner contends that such non-payment of money is clearly arbitrary and high-handed requiring the interference of this Court.

3. On the other hand, learned Government Pleader for Irrigation, while admitting about the claim of the petitioner, placed on record instructions received from the Executive Engineer, Irrigation Division, Guntur, dated

09.09.2024. He submitted that necessary LOC was requisitioned by the Office of the Executive Engineer, Irrigation Division, Guntur and that the bill of the petitioner will be processed in CFMS immediately after the release of LOC by the government, based on seniority and availability of State budget provisions and prayed to pass appropriate orders.

4. In view of the submissions of the learned counsel for the petitioner and the learned Government Pleader for Irrigation, this Writ Petition is allowed with a direction to the respondents to release the amount of Rs.12,59,461/- to the petitioner, along with the interest as per the entitlement vide the judgment of the Division Bench of this Court in Writ Appeal No.724 of 2021 and batch of cases dated 12.10.2023, within a period of two (02) months from the date of receipt of a copy of this order.

5. It is open to the petitioner to agitate the claim for higher rate of interest, if any, payable by the respondents, before an appropriate forum. There shall be no order as to costs.

6. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

SD/- SHAIK MOHD. RAFI
ASSISTANT REGISTRAR

//TRUE COPY//

18
SECTION OFFICER

To,

1. The Principal Secretary, Water Resource Department, Secretariat Buildings, at Velagapudi, Amaravati, Guntur District.
2. The Principal Secretary, Department of Finance and Planning, Secretariat Buildings, Velagapudi, Amaravati, Guntur District
3. The Executive Engineer, Irrigation Division, Guntur, Guntur District.
4. The Director, Pay and Accounts, Finance Department, Anjaneya Towers, Ibrahimpatnam, Vijayawada, Krishna District.
5. Pay and Account Officer (PAO), Works and Accounts, Vijayawada, Krishna District.
6. One CC to Sri Gouthami Surapareddy Advocate [OPUC]
7. Two CCs to GP for Irrigation and CAD ,High Court Of Andhra Pradesh. [OUT]
8. Three CD Copies

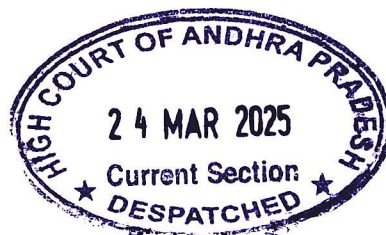
(Along with copy of order dated 12.10.2023 in WA No.724 of 2021 and batch)

HIGH COURT

DATED:23/09/2024

ORDER

WP.No.19327 of 2024



ALLOWING THE W.P. WITHOUT COSTS

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR.JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&

HON'BLE MR. JUSTICE NINALA JAYASURYA

W.A.Nos.724, 725, 726, 729, 730, 733, 740, 741, 743, 754, 755, 758, 764 to 774, 776 to 783, 785, 786, 789, 790, 791, 799, 804, 811, 813, 816, 818, 819, 824, 825, 828, 830, 835 to 846, 848, 849, 850, 853 to 863, 870, 871, 875, 876, 878, 879, 881 to 885, 887, 891 to 908, 911, 912, 915, 917, 918, 919, 922, 924, 925, 928 to 932, 934, 938, 940 to 950 of 2021; W.A.Nos.1 to 5, 9, 11, 12, 14, 15, 16, 18, 21, 25, 28, 30, 31, 33, 37 to 50, 56 to 62, 64 to 71, 73, 76, 79, 84, 89, 90, 97, 98, 100, 101, 105, 106, 108, 109 to 115, 118 to 125, 130, 132 to 138, 146, 150, 155, 158, 160 to 162, 164, 165, 167, 170 to 176, 178, 179 to 188, 190, 191, 193, 198, 199, 200, 202, 208, 209 to 231, 233, 235, 236, 239, 243 to 252, 254 to 259, 263, 264, 265, 267, 269 to 273, 275, 276, 278, 279, 280, 281, 283, 284, 302, 303, 304, 305, 307, 308, 309, 310, 312, 313, 315, 316, 318 to 325, 330, 332, 334, 337, 343, 346, 348 to 354, 357, 358, 365, 367 to 371, 379, 380, 384, 385, 395, 397, 403, 405, 408, 417, 418, 420 to 423, 425, 428, 429, 443, 445, 453, 454, 478, 479, 480, 485, 488, 493, 499, 508, 510, 516, 568, 625, 2878, 4888, 11873, 14828, & 16572 of 2022; W.A.Nos.97, 99, 100, 101, 102, 103, 104, 105, 108, 111, 112, 113, 114, 115, 116 & 117 of 2023; W.A.Nos.991, 989, 1059, 1067, 1069, 1070, 1074, 1076 & 1079 of 2022 and W.A.Nos.4 to 10, 14, 22 to 25, 27, 32, 34, 35, 36, 37, 40, 41, 43, 44, 47, 48, 50 to 59, 61 to 71, 73 to 88, 90 to 93, 95, 96, 119 to 134, 136 to 138, 141 to 144, 147 to 153, 155, 156, 159, 160, 166, 175 to 186, 191, 199, 201, 210, 217, 224, 225, 233, 238, 248, 250, 268, 352, 361, 371, 372, 373, 376, 386, 387, 432, 479, 487, 491 to 493, 576, 578, 579, 582, 592, 594, 596, 599 & 604 of 2023.

W.A.No.724 of 2021:

The State of Andhra Pradesh,
rep., by its Principal Secretary to Government,
Panchayat Raj and Rural Development Department,
Velagapudi, Amaravati, Guntur District,
Andhra Pradesh & 7 others.

...Appellants

Versus

Nagaboyina Satyavathi,
W/o.Kasiviswanath, aged 39 years,
Occ:Properties, R/o.Nabeepeta Village,
Nallajarla Mandal, West Godavari District & 2 others.

... Respondents

Counsel for the Appellants

: Learned Advocate General a/w GP for Panchayat
Raj & Rural Development

Counsel for the 1st respondent

: Smt.Nimmagadda Revathi

Counsel for the 2nd respondent

: Sri N. Srihari, learned Standing Counsel

Counsel for the 3rd respondent

: Government Pleader for Finance & Planning

Along with batch

2.2 The case of the petitioners was that the material had been supplied and works executed in entirety and further that the expenditure of material supplied and the work executed had been entered into in the relevant measurement books and verified by the concerned engineers who had supervised the work. It was thus urged that withholding the amount which was otherwise due and payable to the petitioners was illegal and arbitrary.

2.3 The stand of the respondents and in particular the Panchayat Raj and Rural Development Department was that there were large scale allegations received from general public as also public representatives in regard to execution of projects under Mahatma Gandhi National Rural Employment Guarantee Scheme [MGNREGS] by the Panchayat Raj and Rural Development, Water Resources Development and Higher Education Departments. A Government Memo bearing No.1202/Vig.I/2020-4, dated 05.05.2020, came to be issued wherein, based upon the report of the General Administration Department recommending initiation of disciplinary action against erring Government officials, the General Administration Department also recommended that the department of Panchayat Raj and Rural Development gets verified all works taken up under MGNREGS to curb payment to fraudulent works and to safeguard the Government funds.

Government finally in the Memo, dated 05.11.2020, in paragraph No.3 ordered as under:

“3. Accordingly, the Govt., after careful examination of the matter, hereby approve the proposal of Commissioner, PR & RD and accordingly permit to release an amount of Rs.409.69 Crores for the total 7,27,205 number of works that are having estimated cost upto Rs.5.00 lakhs with the deduction of 21.02% for DCC works and 6.33% for MCC works as proposed.”

2.5 By virtue of another Memo, dated 12.05.2021, the Government permitted the release of pending payments of the works above Rs.5,00,000/- executed between the period from 01.10.2018 to 31.05.2019 by applying the recovery of 21.02% of the DCC works and 6.33% for MCC works. Paragraph No.3 of the Memo, dated 12.05.2021, is reproduced hereunder:

“3. Accordingly, the Government after examination of the matter, hereby approve the proposal of Commissioner, PR & RD and accordingly permit him to release pending payment of the works above Rs.5.00 Lakhs which were taken-up under MGNREG Scheme between the period from 01.10.2018 to 31.05.2019 applying the abstract of findings on recovery for the works verified that is applying recovery of 21.02% for DCC works and 6.33% for MCC works duly following all the guidelines prescribed by the GoI, MoRD and State Government from time to time in release of payments.”

2.6 It is in the aforementioned backdrop that the writ petitions were filed challenging the action of the official respondents

bar of entertaining a writ petition even if the same arose out of a contractual obligation or involved disputed questions of fact.

3. Learned Advocate General, Mr. S. Sriram, appearing for the appellants-State vehemently urged that the view expressed by the learned single Judge in setting aside the Memos, dated 05.11.2020 and 12.05.2021, was legally not correct. It was urged that there was sufficient material with the Government based upon verification conducted in as many as 11,918 works wherein the vigilance teams had found that works done was either to be rejected or even recoveries were required to be ordered. It was, in those circumstances, urged that the Government had taken a decision to pay the amount on account of material supplied/work done less the percentage reflected in the two Memos dated 05.11.2020 and 12.05.2021.

3.1 It was urged that the aforementioned two Memos, in-fact, were enabling orders which would facilitate payment to the petitioners notwithstanding the fact that the entire amount could have been withheld by the Government pending vigilance enquiry into each one of the contracts executed by the petitioners under the said schemes.

3.4 It was thus urged that while one single Bench of this court permitted the Government to conduct an enquiry before payment is made in terms of works with the value of Rs.5,00,000/- and directed payment of the amount minus the deduction as envisaged under Memo, dated 05.11.2020, the judgment and order impugned in these appeals proceeded to totally quash the said Memo along with another Memo, dated 12.05.2021, taking away the right of the Government to conduct an enquiry.

3.5 It was also urged by learned Advocate General that the writ appeals preferred by the Government in the cases filed by the petitioners and standing at item Nos.408 to 566 in the cause list were all cases where vigilance teams had found that the work was deficient and sub standard. That is stated to be one reason why the Government is stated to have filed review petitions before the writ Court highlighting this particular aspect of the matter.

3.6 The learned Advocate General however very fairly stated that even when the Memos dated 05.11.2020 and 12.05.2021, did not envisage payment of any amount other than prescribed under the two memos after making deductions at the rates prescribed therein, yet, it was urged that following the judgment of the learned single Judge rendered in WP.No.955 of

effect from the date when the bills were submitted by the petitioners for payment till the date of final payments.

(d) Such of the petitioners who had executed works much before the period of 01.10.2018 would be paid, if not already paid, the entire amount due and payable to them within a period of one month from today, with interest calculated at the rate of 6% per annum with effect from the date when the bills were submitted by the petitioners for payment till the date of final payments.

6. The common judgment and order impugned shall stand modified accordingly.

7. The Writ Appeals are accordingly disposed of. No order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

NINALA JAYASURYA, J

Vjl