

THE HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No. 23345 of 2021

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondents in withholding the payment of net amount of Rs.62,71,881/- (Gross amount of Rs.67,35,889/- vide CFMS No.2021-847506) and net amount of Rs.44,34,079/- (Gross amount of Rs.47,93,619/- vide CFMS No.2021-843929) even after finalizing the bills payable to the petitioner in relation to the works vide Agreements dated 08.03.2018, as illegal and arbitrary.

2. The grievance of the petitioner is that he is a contractor and executed various civil works awarded by the Government. He was entrusted with the works of construction of Additional Class rooms to Government Junior College at Polavaram Village & Mandal, West Godavari District vide Agreement No.494/2017-18/DB dated 08.03.2018 and construction of Additional Class rooms to Government Junior College at Jeelugumilli Village & Mandal, West Godavari District vide Agreement No.495/2017-18/DB dated 08.03.2018, by way of tender process. He completed the work entrusted by the 2nd respondent in time and submitted the bills. Though the respondents 2 and 3 taken over the records and all the bills submitted by him and issued a statement for work done, have not released the bill amounts till date without any reasons.

Assailing the inaction of the respondents, the present writ petition is filed.

3. The 3rd respondent filed the counter stating that the work was executed by the petitioner as per agreement conditions. Accordingly, measurements were recorded and part payment was made. For arranging balance payment of Rs.62,71,881/- in respect of the agreement work of Polavaram and Rs.44,34,079/- in respect of the agreement work of Jeelugumilli to the petitioner, the bills were already processed under CFMS vide Token No.2021-847506 dated 05.07.2021 and Token No.2021-843929 dated 05.07.2021 in respect of the undisputed bills and the same are pending with Pay & Accounts Officer, Works & Projects, Eluru for want of release of funds. As per Clause 42.1 of the Contractors agreement, the contractor is not entitled to interest on any payments in arrears or upon any balance payment on the final settlement.

5. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Social Welfare and learned Assistant Government Pleader for Finance & Planning.

6. Having regard to the facts and circumstances of the case, submissions of the learned counsel and on perusal of the record, this Court found that in pursuance of the interim order dated 26.10.2021, the respondents paid the bill amounts. But, the learned counsel for the petitioner still

states that the petitioner is entitled for interest as per the terms and conditions of the agreement. However, this Court while exercising the power under Article 226 of the Constitution of India, could not gone into the claim of the petitioner for interest which gives raise to disputed questions of fact leading to calculation of interest part. Therefore, this Court, in the interest of justice, felt it appropriate to dispose of the writ petition giving liberty to the petitioner to approach the Civil Court for interest, if so advised.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

8. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE M.GANGA RAO

18-02-2022
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