IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.35914 of 2022

Between:-

M/s. Lanco Infratech Ltd., represented by its Authorized Signatory B.S.Prasad. .... Petitioner

And

The State of Andhra Pradesh, represented by its Principal Secretary, Irrigation & CAD Department Secretariat, Velagapudi, Amaravati & 4 others. .... Respondents

Counsel for the Petitioner : Mr.K. Suresh Kumar Reddy

Counsel for the Respondents : Government Pleader for Irrigation & Command Area Development

Government Pleader for Finance & Planning

ORDER:

The present Writ Petition is filed aggrieved by the action of the respondents in withholding the amount of Rs.1,61,67,561/- due to the petitioner for the works done by it i.e., Investigation, Preparation of HPs, design, formation of Marala reservoir at Km 371.040 of main canal including investigation, preparation of HPs, design, excavation, construction of CM & CD works for distributor system for an ayacut of 18000 acres Kharif ID under HNSS Phase-II in Anantapuramu District" under Agreement, dated 05.02.2007, which is illegal, arbitrary etc., and for a consequential direction to the respondents to pay the said amount.

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2. The learned counsel for the petitioner submits that the petitioner completed the works pursuant to the above said Agreement and the concerned officers inspected the work, conducted quality check also and thereafter relevant entries were made in the Measurement Book. Further that the respondents have not uploaded the Bills in respect of the works executed by the petitioner and not paid amounts due, despite the repeated requests made by the petitioner and in view of the delay on the part of the respondents in releasing the amount, the petitioner is facing severe financial crisis. Under the said circumstances, the present Writ Petition is filed.

3. A Counter Affidavit is filed by the 4th respondent, from a reading of which, it would appear that there is no dispute with regard to the works executed by the petitioner. However, the payment is not made on the premise that sufficient budget is not released by the Government. The relevant portion of the Counter Affidavit in this regard reads as follows:-

> "5. I humbly submit that the LS 29th & Final bill of Package No.12EPC has been scrutinized and prepared as per the Revised Estimate and Supplemental Agreement and prepared for Rs.1,69,98,051/-. The Memo of Payment was also made in the Measurement Book on 21.05.2022. However, the said bill was unable to process in CFMS portal to submit to the Pay & Accounts Officer, Ananthapuramu for making payment due to insufficient Budget. The bill could not be uploaded in CFMS Phase-II unless sufficient budget is allocated. Subsequently, the higher authorities have been requested to release sufficient budget so as to submit the bills to the Pay & Accounts Officer, Ananthapuramu for arranging payment."

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4. Therefore, in view of the undisputed position with regard to the execution of work by the petitioner and non-payment of Bills in respect of the same, this Court being of the opinion that the respondents' action in withholding payment is unjust, not tenable and deemed appropriate to grant 8 (eight) weeks time to the respondents for payment of the amount as it is an old agreement, though a request is made for granting four months time.

5. Accordingly, the Writ Petition is disposed of, with a direction to the respondents to arrange to pay the amount, which is due and payable to the petitioner, in respect of the Agreement in question, after effecting the statutory deductions, as expeditiously as possible, at any rate within a period of eight (8) weeks from the date of receipt of a copy of the order. There shall be no order as to costs. As a sequel, all pending applications shall stand closed.

JUSTICE NINALA JAYASURYA

Date: 28.06.2023

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