

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE SIXTH DAY OF AUGUST,
TWO THOUSAND AND TWENTY FOUR



:PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

IA No. 1 OF 2024

IN

WP NO: 17167 OF 2024

Between:

Board of Visakhapatnam Port Authority, Rep. by its Executive Engineer,
Engineering Department, Administrative Office Building, Port
Area, Visakhapatnam - 530 035, Andhra Pradesh.

...Petitioner

AND

1. The Union of India, Rep by its Secretary, The Ministry of Micro Small and Medium Enterprises Udyog Bhawan Rail Marg New Delhi-110011.
2. Andhra Pradesh Micro And Small Enterprises Facilitation Council, Established under Section 20 of Micro Small and Medium Enterprises Development Act 2006, APMSEFC, Represented by its Commissioner, 8th Floor APIIC, Towers, Auto Nagar, Mangalagiri, Guntur District - 522503.
3. M/s. Jupiter Contech Private Limited, (Formerly Konark Foundations Pvt. Ltd) 1-83-14/2, 2nd Floor, Sector 3, MVP Double Road, MVP Colony, Visakhapatnam - 530017.

...Respondents

Counsel for the Petitioner : Sri Raviteja Padiri

Counsel for the Respondent No.1 : Deputy Solicitor General of India

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 stay all the proceedings in relation Case No. 21C/IFC/2015/9442

including the to the order Dt. 31.08.2021 of the Andhra Pradesh Micro and Small Enterprises Facilitation. Council, Mangalagiri and the consequential proceedings, Pending disposal of WP No. 17167 of 2024, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following (The receipt of this order will be deemed to be the receipt of notice in the case)

ORDER:

"Heard learned counsel for the petitioner and learned Standing Counsel for the respondent No. 1.

It is represented by learned counsel for the petitioner that this Court in W.P.No.27670 of 2021, while allowing the writ petition filed by RINL held that that the MSME Council has no jurisdiction to entertain the claims made by the company, to which contract has been allotted. Learned Judge further held that "the contracts are works contracts with an element of supply and not merely supply and service contracts. The contractors have also not filed the memorandum U/s.8 of Act 27 of 2006 as held in the case of *Silpi Industries etc., Vs. Kerala State Road Transport Corporation and another*¹."

It is represented by learned counsel for the respondents that the said order is challenged before the Hon'ble Division Bench of this Court in Writ Appeal Nos.657 of 2022 and batch, and is pending consideration.

Having regard to the facts and circumstances of the case, this Court *prima facie* is of the opinion that the 2nd respondent - APMSEFC

ought not to have initiated the proceedings under Section 18 of the MSMED Act.

Accordingly, there shall be an interim stay of proceedings bearing Ref.No.21C/IFC/2015/9442, dated 31.08.2021 issued by the Andhra Pradesh Micro and Small Enterprises Facilitation Council, Mangalagiri, for a period of four (4) weeks."

SD/- V.SAVITHRI GOWRI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For

To,

1. The Secretary, Union of India, The Ministry of Micro Small and Medium Enterprises Udyog Bhawan Rail Marg New Delhi-110011.
2. The Commissioner, Andhra Pradesh Micro And Small Enterprises Facilitation Council, Established under Section 20 of Micro Small and Medium Enterprises Development Act 2006, APMSEFC, 8TH Floor APIIC, Towers, Auto Nagar, Mangalagiri, Guntur District - 522503.
3. M/s. Jupiter Contech Private Limited, (Formerly Konark Foundations Pvt. Ltd) 1-83-14/2, 2nd Floor, Sector 3, MVP Double Road, MVP Colony, Visakhapatnam - 530017. (Addressee nos.1 to 3 by RPAD)
4. One CC to Sri Raviteja Padiri, Advocate [OPUC]
5. One CC to Deputy Solicitor General of India, High Court of A.P, Amarvati [OPUC]
6. One spare copy

CVSS

HIGH COURT

NV,J

DATED:06/08/2024

LIST THE MATTER AFTER FOUR (4) WEEKS.

ORDER

IA No. 1 OF 2024
IN
WP NO: 17167 OF 2024

DIRECTION

