

APHC010450592024



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

[3330]

TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION NO: 23142/2024

Between:

1.M/S PTR BROTHERS PROJECTS (FIRM NO.263 OF 2013), REPRESENTED BY MANAGING PARTNER AND AUTHORIZED SIGNATORY, SMT. NARRA ARUNAMMA, WIFE OF NARRA MALLIKARJUNA REDDY, AGED ABOUT 61 YEARS. SPECIAL CLASS, CIVIL CONTRACTOR, D.NO. 1/1266-A, BUNGLOW THOTA, NAWABPETA, NELLORE, AP-524002.

...PETITIONER

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, FINANCE DEPARTMENT, SECRETARIAT, GUNTUR DISTRICT. VELAGAPUDI, AMARAVATHI,
- 2.THE PRINCIPAL SECRETARY, ROAD AND BUILDINGS DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
- 3.THE ENGINEERINCHIEF ROADS AND BUILDINGS, SH AND MDR, ANDHRA PRADESH ROAD DEVELOPMENT CORPORATION (APRDC), VIJAYAWADA.
- 4.THE CHIEF ENGINEER R AND B, ROADS AND BUILDINGS CIRCLE, NELLORE, SPSR NELLORE DISTRICT.
- 5.THE EXECUTIVE ENGINEER, ROADS AND BUILDINGS DIVISION, KAVALI, SPSR NELLORE DISTRICT.

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 nature of writ of Mandamus declaring the action of the respondents herein for not releasing the net amount of Rs.3,19,92427.00 as admitted by the 5th respondent through bill dated 08.10.2024 under L.S Agreement C.R.No.Ast.No.79/2023-24 dated 19.02.2024 is illegal, arbitrary, malafide and unconstitutional and also contrary to the public policy, public trust and public interest by not full- filling the contractual obligation and consequently direct the respondents herein to process the legal and final bill dated 08.10.2024 by directing the 1st respondent herein to pay at the earliest and pass

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 herein to process the final bill dated 08.10.2024 for an amount of RS.3,19,92427.00 as admitted by the 5th respondent forthwith, pending disposal of the above said writ petition and pass

Counsel for the Petitioner:

1.DEVASRI ROSHAN KANCHARLA

Counsel for the Respondent(S):

1.GP FOR ROADS BUILDINGS

2.GP FOR FINANCE PLANNING

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.23142 OF 2024

ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“...to issue a Writ, Order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents herein for not releasing the net amount of Rs.3,19,92427.00 as admitted by the 5th respondent through bill dated 08.10.2024 under L.S Agreement C.R.No.Ast.No.79/2023-24 dated 19.02.2024 is illegal. arbitrary, malafide and unconstitutional and also contrary to the public policy, public trust and public interest by not full- filling the contractual obligation and consequently direct the respondents herein to process the legal and final bill dated 08.10.2024 by directing the 1st respondent herein to pay at the earliest and pass such other order or orders...”

2. Heard Sri V.Surendra Reddy, learned counsel for petitioner and learned Government Pleader for respondents.

3. The present writ petition is filed aggrieved by the action of the respondents for not releasing the net amount of Rs.3,19,92,427/- as admitted by the 5th respondent on the nomenclature of bill dated 08.10.2024 under LS Agreement C.R.No.Ast.No.79/2023-24 dated 19.02.2024 of improvements of two packages (1) improvements to Riding Surface to Bitragunta Bramhanakraka Road from 0/0 to 17/180 in SPSR Nellore District & (2) Improvements to Riding Surface to Road from Km 22/8 of K.U.S Road to S.K.Road (via) Siddanakodur from Km 0/0 to 14/564 in SPSR Nellore District despite the completion of work ie., the two packages admitted in arbitrary, illegal unconstitutional and contrary to the public Trust and public interest respectively for not forwarding the said legal and final bill dated 08.10.2024.

4. Learned Government Pleader for Roads and Buildings filed counter-affidavit asserting that the bill was received by the Roads & Buildings Division on 05.10.2024, immediately the office of Roads & Buildings Division has responded and managed to prepare a final bill Gross amount of Rs.3,51,13,211/- after thorough check in all levels. After creation of Administrative sanction ID at HOD level, creation of technical sanction ID and agreement ID in NIDHI Portal, the bill was processed. It is further asserted that the office has uploaded the LS-I and Final bill for Gross amount of Rs.3,19,57,365/- and Net amount payable to the contracting agency for Rs.3,19,57,365/- through NIDHI portal *vide* Bill No.2024-9025562 and is pending at CFMS payment portal for want of fund clearance in bill No.2024-1662514.

5. Insofar as the interest component, the respondents contended that the petitioner should approach the appropriate forum, relying on the order of the Division Bench in W.A.791 of 2022 dated 26.04.2022. The Division Bench affirmed the Single Judge's order, directing the petitioner to seek relief regarding interest from the appropriate forum. In a catena of cases this Court had held that where dispute revolves round questions of fact, the matter ought not be entertained under Article 226 of the Constitution of India.

6. In the present case, the respondents have not disputed the payment due to the petitioner for the work executed and the respondents have manifested in their written instructions that they will pay the amount to the petitioner and they are unable to the pay due to "Bill waiting for fund

clearance”, once the work executed by the petitioner to the respondents is admitted and the payment due to the petitioner is not disputed by the respondents, there was hardly no need for this Court to refer the matter to any forum or for arbitration for passing an arbitral award assuming that any condition in the agreement to that extent. Hence, this Court directs the respondents to pay the admitted amount to the petitioner.

7. In The D.F.O., South Kheri And Ors. vs Ram Sanahi Singh¹, the Hon^{ble} Apex Court held that when a State decides not to pay the dues with mala fide, with ulterior motives or arbitrarily or when the State avoids payment of the dues with mala fide, with ulterior motives, arbitrarily or when the State discriminates, while making payment dues, such a decision of the State not to pay or such an act of the State of not paying its dues cannot be said to be wholly beyond the reach of Article 226, for asking the writ Court to do is to force the State to act in accordance with its constitutional obligation by adhering to the letter and spirit of Articles 14 and 21 of the Constitution of India.

8. In view of the above, the present Writ Petition is disposed of with following directions:

(a) The respondents are directed to clear the due amount to the petitioner within a period of four (04) months from the date of receipt of a copy of this order.

(b) Sum due to the petitioner would mean, the sum arrived after statutory deductions. If there is any dispute regarding statutory recoveries, the petitioner is at liberty to communicate/interface with the respondents.

(c) With regard to interest, the petitioner is at liberty to approach appropriate forum.

There shall be no order as to costs.

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

JUSTICE TARLADA RAJASEKHAR RAO

Date: 10.02.2026

SSA