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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5858/2021, CM APPL. 18404/2021, CM APPL. 4568/2023,
CM APPL. 41274/2024, 60545/2024, 67732/2024 & 67900/2024
PRATIBHA INDUSTRIES LIMITEDPetitioner
Through: Mr. J. Rajesh, Mr. Dhruvad Vaghani,
Mr. Jaitegan Khurana and Md.
Arsalan Ahmed, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND ORS.Respondents
Through: Ms. Sangeeta Bharti, Standing
Counsel with Mr. Shreesh Pathak,
Ms. Atika Chaturvedi, Advocate for
R-2.
Ms. Malvika Trivedi, Senior
Advocate with Ms. Rhea Verma and
Mr. Shailendra Slaria, Advocates for
R-3.
Mr. Anirudh Bakhru, Mr. Vikram
Choudhary, Mr. Nilay Gupta,
Advocates for R-4
Mr. Rajesh Kumar Gautam, Mr.
Anant Gautam, Mr. Deepanjal
Choudhary, Advocates for Indian
Bank.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **14.01.2025**

CM APPL.54962/2024

1. It is an application filed by the applicant seeking respondent no.3/ Engineers India Limited to release a sum of Rs.4,00,00,000/- for the purpose of completing the concerned project in all respects.
2. It is submitted by the learned counsel for the respondent no.4 and confirmed by the learned counsel for the Delhi Jal Board (DJB) and



Engineers India Limited (EIL) that a punch list has been prepared setting out the remaining work that has to be completed prior to handing-over the project to DJB through EIL. The said punch list is reproduced as under:-

“Following are the observation of EE(SDW)-VII at joint site visit for Handing/taking over of package-3.

1. Before handing over labour clearance certificate from labour department is required.

2. Kindly provide the completion certificate of the work from EE {ISP} division before Handing over /taken over. In addition, kindly provide completion documents & other documents as mentioned in Clause No. 30 of Part I. So that, DLP period can be decided accordingly.

3. Kindly mention the specific condition of contract that under which clause, this division i.e, EE (SDW)-VII, has to initiate-the process of Handing Over/ taken over.

4. Work order for this work was awarded to M/s Pratibha Mosinzhstroi Consortium but now EIL informed that during the liquidator process M/s Pratibha Mosinzhstroi Consortium was bankrupted. Therefore, kindly clear that, now which firm is responsible or engaged in the process of handing over/taken over and which firm will submit the performance guaranty against work and for O&M PBG (according to the bid documents). Hence kindly directed the firm to provide a copy of O&M PBG as per Performa given in CA As per clause no. 30.2.(J) the contractor is to submit all the required Certificates

5. In addition, 3 Nos sets of Project CA is to be handed over to division EE (SDW) VII. Also provide as built drawings of all E&M equipments (certify copy)

6. Approved O&M manual is to be submit to this division.

7. Additionally, If in case any disputes with the labour is pending kindly clear the same before handing over taken over or hand over the clear site without any labour disputes. An inspection is being carried out along with officers of ISP DJB, E&M, EIL and agency representative Mr. Senthil for Package-3 of interceptor project which is approximately 20 Km. sewer line including 18 IC's and 68 Manholes as per their drawing. During inspection till date some of the following observations has been made:

8. The stretch 1. That is from Lekhu Pura IC to Bharat Nagar Pump House is not functional and entire trapped drains of the stretch are bypassing into the supplementary drain.

9. Some drains apparently 6 Nos. are not trapped with the system and falling in the supplementary drain.

10. Stretch 1 connecting line from M/H R-01 to J-01 of NG-I0A IC is damaged and not functional.



11. Some IC1s are connected with the DJB sewer line. Is it in the scope of the work? What is the dia of existing sewer pipe and who will maintain this line? Should also be clear.
12. In some IC's the supplementary drain is back flowing into the IC's.
13. All the sewer connection in the interceptor line Manholes need to be mention and recorded in detail.
14. Structure position of certain IC's are not good and unfinished. Reinforcement are exposed, cracks, Honey combing seen.
15. Most of the boundary wall of IC's are damaged, missing/damage fencing and lesser in height. - A
16. Back post and fencing in most of the IC's are missing and damaged.
17. In some of the \C's sluice gates/screens are not functional and missing.
18. No outside boundary wall protection like pitching etc. is there in all IC's.
19. G.I. railing is providing in all structure which is also damaged and missing in certain IC's.
20. At some places vent pipes are not there and not properly protected/covered. 14. Some Manholes are not approachable and back filling in casing not done and even few are buried and not visible.
21. In some inspected Manholes, frame are displaced and for raising Manhole bottle neck has been created by brick work which is also damaged.
22. Invert level/crown of laid pipe could not be seen due to high level of water in the ISP Manhole.
23. In Burari Pump house most of the chajja's are damaged, crack observed in column and beams. G.I. shed of the pump house also damaged.
24. No arrangement for stop log in IC's.
25. Rain water harvesting system is not there in pump house.
26. Maintenance in all the structure i.e repairing, white washing; and painting and sign board is required."

3. It is submitted by the learned counsel for the applicant as also by the learned counsel for DJB and EIL that the applicant has been actively engaged in the execution of the project. It is also submitted by the learned senior counsel for EIL that the engagement of the applicant is in an independent capacity pursuant to the unavailability of the petitioner and pursuant to a receipt of intimation in this regard from the petitioner.

4. It is also noticed that vide order dated 18.11.2021 in W.P.(C)



4900/2021, directions have been issued to the respondent no.3 for release of 50% of the certified dues to the applicant/ respondent no.4 in the first phase i.e. Rs.18,00,00,000/-, leaving a balance of Rs.18,00,00,000/- yet to be released.

5. Learned senior counsel for the EIL submits that out of the balance amount of 18,00,00,000/-, a sum of Rs. 2,74,00,000/- has been released to the workmen involved in the execution of the project directly.

6. Learned counsel for the applicant submits that if a further sum of Rs.4,00,00,000/- is released to the applicant (in tranches) all the punch list items shall be completed within a period of four months and the project will be fully executed and ready for handing-over to DJB through EIL. Learned counsel for the EIL and DJB do not oppose this suggestion.

7. Accordingly, in the interest of expeditious completion of the project in question, it is directed that respondent no.3/EIL shall release a sum of Rs.4,00,00,000/- to the applicant in four equal monthly instalments commencing from 1st February, 2025. The applicant shall take expeditious steps to complete the project in all respects within the timeframe indicated by the applicant i.e. four months.

8. EIL shall supervise the execution of the work and monthly instalments shall be released only after verification that adequate progress in the work has been made by the applicant.

9. Learned counsel for the applicant assures and undertakes, on instructions, that there shall be no shortcoming in the work in question; subject to the release of the aforesaid amount of Rs.4 crores in the manner aforesaid, the applicant will ensure that the project is handed over to DJB (through EIL) without any shortcoming or defect.



10. The above arrangement shall be subject to further orders in writ petition.
 11. All rights and contention of the respective parties are kept open for consideration.
 12. List for further consideration on 27.05.2025.
- CM APPL. 67731/2024**
13. Issue notice.
 14. Learned counsel as aforesaid accept notice on behalf of the non-applicant.
 15. Let reply be filed within a period of four weeks from today. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.
 16. List on 27.05.2025.

SACHIN DATTA, J

JANUARY 14, 2025/at