

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.19731 OF 2023

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 or any other appropriate writ or direction declaring the action of the respondent authorities in not implementing the Price adjustment for other materials, labour and machinery other than cement and steel under G.O.Ms.No.35, Transport, Roads & Buildings (R.I) Department, dated 30.01.2009 and the 4th Respondent's Circular Memo No.T2/DEEII/MD/Tenders/16-17, dated 26.12.2017 to the Petitioners Contract works i.e., Construction of Administrative Building for Boys Hostel & Library building for Vikramasimhapuri University at Kakuturu Village and Mandal in SPSR Nellore District as illegal, arbitrary and violative of Art 14 and 21 of the Constitution of India and consequently direct the respondent authorities to implement the Price adjustment for other materials labour and machinery other than cement and steel to the Petitioners contract works and pass such other order or orders.....”

2. The short grievance of the petitioners is that, the respondent authorities are not implementing the Price adjustment for the materials, labour and machinery other than cement and steel under G.O.Ms.No.35, Transport, Roads & Buildings (R.I) Department dated 30.01.2009 and the 4th respondent's Circular Memo No.T2/DEEII/MD/Tenders/16-17, dated 26.12.2017 to the petitioners contract works.

3. Heard Sri Rambabu Koppineedi, learned counsel for the petitioners, learned Government Pleader for Higher Education,

learned Assistant Government Pleader for Finance & Planning, and Sri K.Kanaka Raju, learned standing counsel for the Andhra Pradesh Education and Welfare Infrastructure Development Corporation (APEWIDC).

4. Learned counsel for the petitioners, in elaboration to what has been stated in the affidavit contended that, 4th respondent issued e-procurement tender with the administrative sanction of 1st respondent for construction of Administrative Building for Boys Hostel & Library building for Vikramasimhapuri University at Kakuturu village and Mandal, SPSR Nellore District and after completion of work, the bills were finalized, but the respondent authorities did not pay the bills. He further submitted that, there is an ambiguity in price adjustment clause No.46 of the agreement. To that effect the petitioners made a representation to respondent Nos.3 to 6 requesting to implement price adjustment of all materials other than cement and steel under G.O.Ms.No.35, dated 30.01.2009. After that 3rd respondent addressed a letter dated 27.07.2022 to 1st respondent requested to grant permission to allow price adjustment as per G.O.Ms.No.35, but so far, no action has been taken by the respondent authorities. As such, the present Writ Petition is filed and prayed to pass appropriate orders in that regard.

5. On the other hand, learned standing counsel for APEWIDC and learned Assistant Government Pleader for Finance & Planning collectively submitted that, pursuant to the letter addressed by 3rd respondent dated 27.07.2022, instead of approaching the concerned authority, the petitioners have filed the present Writ Petition and no document has been placed before this Court that they have approached the concerned authority in that regard.

6. In reply to the same, learned counsel for the petitioners submitted that, the petitioners have already made representations to the authorities, however, liberty may be given to the petitioners to submit a fresh representation by duly enclosing the letter addressed by the 3rd respondent dated 27.07.2022.

7. To the said submission, learned standing counsel for APEWIDC submitted that, if fresh representation is submitted by the petitioners, the authorities can consider the same and pass appropriate orders in accordance with law.

8. Taking the submissions of learned counsel for both parties into consideration, instead of keeping this Writ petition pending, without going into the merits of the case, this Court is inclined to

dispose of the Writ petition, at the admission stage itself, with the following direction:

The petitioners are at liberty to make a fresh representation to the authorities concerned by duly enclosing all the supporting material in support of their claim within a period of two (2) weeks from the date of receipt of a copy of this order and on receipt of such representation by the concerned authorities, they are directed to consider the same by taking into consideration the letter addressed by 3rd respondent dated 27.07.2022 to the 1st respondent and pass appropriate orders within a period of four (4) weeks thereafter and communicate the same to the petitioners.

9. Accordingly, the Writ petition is disposed of. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any in the writ petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

07.08.2023

MP

233

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.19731 OF 2023

07.08.2023

MP