

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.20439 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 declaring the inaction of the respondents in paying the bills for the work of providing manpower to Design, development, implementation and maintenance of various initiatives to RTGS for 5 months i.e. September, 2020 to January, 2021 totally Rs.1,40,42,000/- in spite of repeated representations particularly dated 19.05.2023 as illegal, unjust, arbitrary, high handed, discriminative and dilatory and consequently direct the respondents to pay the bills for the work of providing manpower to Design, development, implementation and maintenance of various initiatives to RTGS for 5 months i.e. September, 2020 to January, 2021 totally Rs.1,40,42,000/- with interest for the delayed period and to pass such other order or orders ...”

2. The case of the petitioner is as follows:
3. The petitioner was registered as a private limited company on 08.09.2014 with the Registrar of Companies, Hyderabad with the address D.No.50-117-17/2/2, F.No.301, Sriya Nilayam, NE Layout Seethammadhara, Visakhapatnam. The petitioner company has expertise in providing manpower to design, development, implementation and maintenance of various initiatives in software development. Later the registered office of the petitioner company was shifted to Vijayawada.

4. It is the further case of the petitioner that the Government of Andhra Pradesh created a separate department called RTGS (Real Time Governance Society) under Respondent No.2 Society. Respondent No.2 Society invited open tenders in the year 2018 for providing manpower to design, development, implementation and maintenance of various initiatives of RTGS. The petitioner company participated in the open tender and the petitioner company stood as LI in the bidding. As such the Respondent No.2 Society entered into an agreement with the petitioner Company for providing manpower to Design, development, implementation and maintenance of various initiatives to RTGS on 01.04.2018 for a period of two years. The petitioner company provided the manpower as per the agreement without any deviation and bills were also being paid regularly. Before the completion of the period on 31.03.2020, the petitioner company submitted a request letter for an extension of the contract on the same terms and conditions. Respondent No.2 Society allowed the extension orally and as such the petitioner company continued the work and finally Respondent No.2 Society gave an extension for three months until 30.06.2020 at the existing terms and conditions through its Lr.No.RTGS/CEMS/30-2020, dated 25.06.2020.

5. It is the contention of the petitioner that even though the respondents admitted that the petitioner is entitled for payment of Rs.1,40,42,000/-, no payment is being made. The petitioner contends that

such non-payment of money is clearly arbitrary and high-handed requiring the interference of this Court.

6. This Court, in various orders, including the judgment of a learned Single Judge of this Court dated 05.10.2021 in W.P.No.10038 of 2021 and batch had taken the view that such non-payment of dues is arbitrary and that such dues need to be cleared by the respondents at the earliest.

7. Learned counsel for the petitioner submits that the contract agreement of the petitioner was extended from time to time by Respondent No.2 Society in existing terms and conditions vide letters dated 25.06.2020, 12.12.2020 and 15.02.2021. He further submits that pursuant to the extension of the contract agreement upto January, 2021, the monthly bills were paid upto August, 2020 to the petitioner company by Respondent No.2 Society but the same was also not paid in time as the same is paid belatedly.

8. While things stood thus, Respondent No.2 Society was brought under the control and Jurisdiction of General Administration Department (GAD). In view of sudden change of control over the Respondent No.2 Society from Finance and Planning Department to GAD, the monthly bills of the petitioner from September, 2020 to January 2021 were not paid, for which the petitioner submitted repeated representations to Respondent Nos.1 and 2 particularly on 19.05.2023 claiming total monthly bills payable is Rs.1,40,42,000/-. The said representation was acknowledged by Respondent No.2. After such representation the bills were processed

and CFMS ID numbers were also given. But, to the surprise of the petitioner amounts were not credited to the petitioner, even after the bills were processed and CFMS ID numbers were also given to the petitioner. Thereafter the petitioner requested and also reminded the respondents for payment. But, for one reason or the other, the Respondents not responded to the request of the petitioner.

9. Learned counsel for the petitioner further submits that after change of Department regarding control and management of Respondent No.2 Society from Finance and Planning Department to General Administration Department, the bills are pending for payment. He further submits that the bills were processed and CFMS ID numbers were also allotted to the petitioner which indicates that there is no dispute in respect of claim of the petitioner. Even though the bills were processed, but not paid even after repeated requests from the petitioner. Having no other option the petitioner preferred the present writ petition.

10. Respondent No.3 filed counter-affidavit wherein it is admitted that the contract between the petitioner and Respondent No.2 Society for providing man power to Design, development, implementation and maintenance of various initiatives for RTGS for five months i.e. September, 2020 to January 2021. It is further admitted that Respondent No.2 Society was raised the bill numbers during the Financial Year 2021-22 for an amount of Rs.1,40,42,000/- in CFMS portal for payment to the petitioner. But, the same were returned to DDO. Thereafter, Respondent

No.2 Society has not raised any CFMS bills during the Financial Year 2022-23. It is also admitted that in the current Financial Year i.e. 2023-2024, no bill / proposal has been received from the administrative department for sanction of budget / additional funds. As and when proposals / bills are received from the administrative department the same would be cleared, after due verification.

11. Learned Government Pleader for Finance and Planning submits that the petitioner claimed interest for the delayed payment. In view of the common judgment rendered by this Court in W.A.Nos.461 of 2022 and Batch, dated 02.12.2022, the petitioner was not entitled for interest.

12. Respondent No.2 also filed counter-affidavit wherein it is stated that the petitioner had submitted invoices for five months i.e. September, 2020 to January, 2021 totalling to Rs.1,40,42,000/-. In this regard, Respondent No.2 had processed these invoices and generated CFMS Bill IDs for payment to the petitioner. Due to financial year obligations, the Finance Department has closed and returned these CFMS bills to Respondent No.2.

13. Learned counsel for Respondent No.2 submits that there was an investigation in July, 2022 by the Legislative Committee into the citizen data leak which occurred in early 2019. In the investigation, the Committee conducted an inquiry regarding the answering Respondent, among other stakeholders, and requested information related to the events of the unauthorized data leak of 2019 vide Service Agreement dated

01.04.2018, since the petitioner was the exclusive contractor for RTGS performing the IT/software services which involved the very same data, whose leak was under investigation, RTGS requested the petitioner to cooperate with the investigation authorities.

14. Learned counsel for Respondent No.2 also filed a memo on behalf of Respondent No.2 seeking permission of this Court for filing additional material papers pertaining to “unlawful interception of communications, data theft and illegal transmission” that has occurred during the currency of the Agreement executed between the petitioner and Respondent No.2 Society.

15. Heard learned counsel for the petitioner, learned Government Pleader for the Respondents and perused the material placed on record.

16. After gone through the material placed on record, this Court observed that on 08.01.2018, Respondent No.2 Society entered an agreement with the petitioner after following due tender procedure for providing manpower to Design, development, implementation and maintenance of various initiatives to RTGS. Initially, this is for a period of two years i.e. upto March, 2020. It is further observed that the said agreement was extended from time to time by Respondent No.2 Society vide its proceedings dated 25.06.2020, 12.12.2020 and 15.02.2021. The respondents remitted the monthly bills of the petitioner upto August, 2020, even in the extension period.

17. Moreover, the counter affidavit filed by Respondent No.3 specifically admitted the contract of the petitioner as well as the extension of the contract upto 31.01.2021 and also payment dues of the monthly bills from September, 2020 to January, 2021 to the tune of Rs.1,40,42,000/-.

18. The counter affidavit filed by Respondent No.2 also admitted that the monthly bills from September, 2020 to January, 2021 were to be payable to the petitioner for an amount of Rs.1,40,42,000/-. On the other hand, it was denied by alleging that the petitioner caused unlawful interception of communications, data theft and illegal transmission in the year 2019 but the same was found by the Respondents on September, 2022. Except this allegation, there is no other reason for denying the payment as contended by learned Counsel for Respondent No.2.

19. Coming to the contention of the learned counsel for the petitioner except alleging that petitioner was caused for unlawful interception of communications, data theft and illegal transmission, till today, either notice or any other proceedings neither served nor communicated by the Respondents. As such, on that ground, the respondents cannot hold the admitted amounts of the petitioner is valid and held to be reasonable and liable to be upheld.

20. The other contention of the learned counsel for the petitioner is that if the petitioner caused any unlawful interception of communications, data theft and illegal transmission, the respondents are at liberty to take appropriate action as per the law. But on that ground Respondent No.2

cannot hold the admitted amounts of the petitioner which is nothing but arbitrary and illegal. Hence, petitioner is legally entitled and enforceable his claim in this petition.

21. The other contention of the learned counsel for the petitioner is that the petitioner was awarded with a contract for supply of manpower for design, development and maintenance of prestigious project of Grama Sachivalayam and Ward Sachivalayam by the Andhra Pradesh Technology Services Ltd., vide letter dated 02.03.2020 and same is continuing till today which reveals the reliability and sincerity of the petitioner is to be considered.

22. In view of the foregoing discussion and on perusal of the material placed along with the additional memo filed by Respondent No.2, the action of Respondent No.2 is arbitrary and high handed in nature in withholding the payments to be payable to the petitioner, having admitted the same in white and black in the year 2021 itself. Now, in the year 2023 it cannot be hold on the ground of unlawful interception of communications, data theft and illegal transmission which was found in the year September, 2022 is nothing but a mala fide intention to deny the payments to the petitioner and also in violation of terms of the agreement.

23. Being a public authority, Respondent No.2 is not supposed to hold the payment of the petitioner even without issuing any notice or without initiating any proceedings till today is nothing but arbitrary, illegal and high handed action on the part of Respondent No.2. Therefore the

petitioner is entitled for payment as claimed by him along with interest @ 6% per annum, in view of the judgment of the Hon'ble Division Bench of this Court in Writ Appeal No.724 of 2021 and batch dated 12.10.2023.

24. Accordingly, the writ petition is allowed directing the Respondent Nos.2 and 3 to release an amount of Rs.1,40,42,000/- to the petitioner along with interest @ 6% per annum, in view of the judgment of the Hon'ble Division Bench of this Court in Writ Appeal No.724 of 2021 and batch dated 12.10.2023, within a period of six (06) weeks from the date of receipt of a copy of this order. It would also open to the petitioner to agitate his claim for higher rate of interest, if any payable by the Respondents, in an appropriate forum. There shall be no order as to costs.

Consequently, Miscellaneous Petitioners, if any, pending in this Writ Petition shall stand closed.

VENKATESWARLU NIMMAGADDA, J

06.11.2023
Knr

HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.20439 of 2023

6th November, 2023

KNR.