HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY ,THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT APPEAL NO: 1053 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 07-06-2024 in W.P No. 15514 of 2023 on the file of the High Court.

Between:

M/s. Ch. Gowrishankar Infra Build India Private Limited, Rep. by Chaganam Gowri Sankar, Managing Director, S/o. Late Bhaskar Rao, Aged 58 years, Plot No.820, Bhagat Singh Nagar, Beside Vasanth Nagar Colony, Hyderabad - 500085

...PETITIONER/APPELLANT

AND

1. Government of Telangana, Minorities Welfare Department, Principal Secretary to Government Secretariat, Hyderabad
2. The Director, Minorities Welfare, Government of Telangana, Insurance Building, 4th Floor, Tilak Road, Abids, Hyderabad
3. The Vice-Chairman and Managing Director, Telangana State Education and Welfare Infrastructure Development Corporation, Rajiv Vidya Mission Building, SCERT Compound, Hyderabad - 500001
4. The Chief Engineer, TSEWIDC, Telangana State Education and Welfare Infrastructure Development Corporation, Rajiv Vidya Mission Building, SCERT Compound, Hyderabad - 500001
5. The Superintending Engineer, TSEWIDC, Telangana State Education and Welfare Infrastructure Development Corporation, Rajiv Vidya Mission Building, SCERT Compound, Hyderabad - 500001

...RESPONDENTS/RESPONDENTS

IA NO: 3 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 give an interim direction to Respondent No.1 to release an amount of Rs. 172.81 lakhs to the Petitioner Company pending disposal of the Writ Appeal

Counsel for the Appellant: SRI B. RAVEENDRA BABU

Counsel for the Respondent Nos. 1&2: SRI GADDAM VEERASWAMY , GP FOR SOCIAL WELFARE AND MINORITY WELFARE DEPARMENT

Counsel for the Respondent Nos. 3to5: SRI MOHD. IMRAN KHAN, ADDITIONAL ADVOCATE GENERAL

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1053 OF 2024

JUDGMENT: *(per the Hon'ble Sri Justice J. Sreenivas Rao)*

This intra-court appeal is filed aggrieved by the orders passed by the learned Single Judge of this Court in dismissing the Writ Petition No.15514 of 2023 dated 07.06.2024 in view of the dispute redressal mechanism contemplated under Clause 23.2 of the Agreement entered by the appellant as well as respondents and granted liberty to the petitioner to avail the alternative remedies as available under law.

2. Heard Sri B.Raveendra Babu, learned counsel for the appellant, Sri Gaddam Veeraswamy, learned Government Pleader for Social Welfare and Minority Welfare Department for respondent Nos.1 and 2 and Sri Mohd. Imran Khan, learned Additional Advocate General appearing on behalf of respondent Nos.3 to 5.

3. **Brief facts of the case:**

3.1 The appellant Company was awarded the construction of Minority Residential School for Girls Complex at Antharam Village, Tandur Mandal, Vikarabad District. Accordingly Agreement dated 27.11.2017 was executed for an amount of Rs.1800.00 lakhs on

tender basis less 4.57% discount tender premium. Initially the site was allotted in Sy.No.206 of Jangurthi Village, Tandur Mandal, for which the estimate was prepared for Rs.1800.00 lakhs and the said site was located in rural area and no municipal allowance was included in the estimate. The District Collector, Vikarabad has visited the site and stated that the site is not suitable for MRSC building and it is adjacent to the Gypsum Factory and issued instructions to D.M.W.O., Vikarabad to allot and shift the site to Sy.No.252 of Kokat Village, Yalal Mandal, beside Rajiv Gruha Kalpa, Tandur, which falls under municipal limits with 20% allowances. Pursuant to the same, respondent No.5 has recasted the estimates by duly adding 20% of municipal allowances on labour components as per 2017-18 SSR, which is amounting to Rs.2050.00 lakhs, as against the original administrative sanction of Rs.1800.00 lakhs. Originally the Dormitory building was proposed in G + 2 floors and during the execution, TSEWIDC officials increased the original plan to G + 3 floors, due to which the amount exceeded Rs.88.50 lakhs. Further the length of C.C. road with connecting pathways and curb stones for an amount of Rs.37.22 lakhs exceeded and several other constructions were made, which are not included in the original plan. Due to which the estimated price has gone up. The appellant completed the work and the Department had also issued the satisfactory

completion and handed over the certificate for the work of construction of Minority Residential School for Girls. The appellant Company addressed letter to the respondents to recast the original estimates by adding municipal allowances and payment of bills, accordingly, with retrospective effect.

3.2 In view of the common schedule of rates, 20% extra over basic rates on labour component of works is allowed in all District Headquarters and the remaining Municipal limits. In view of the above fact, for the construction of Minority Residential School Complex at Antharam, which falls under Tandur Municipal limits, respondent Nos.3 and 5 revised the estimates including 20% of municipal allowances, which comes to Rs.129.00 lakhs. The additional works comes to Rs.77.19 lakhs with provision for GST, seigniorage comes to Rs.43.81 lakhs. Aggrieved by the action of respondent No.1 in issuing Memo, dated 07.03.2022, the appellant Company filed Writ Petition No.15514 of 2023.

3.3 Learned Single Judge of this Court dismissed the Writ Petition by relegating the appellant to avail the alternative remedies as available under law in view of the Clause 23 of the Agreement, which reads as follows:

> "23. Settlement of disputes:
>
> 23.1 If any dispute of difference of any kind whatsoever arises between the department and the contractor in connection with

or arising out of the Contract, whether during the progress of the works, or after their completion and whether before or after the termination, abandonment or breach of the Contract, it shall be in the first place, be referred to and settled by the Engineer-in-charge who shall, within a period of thirty days after being requested by the Contractor to do so, give written notice of his decision to the Contractor. Upon receipt of the written notice of the decision of the Engineer-in-charge the Contractor shall promptly proceed without delay to comply with such notice of decision.

Further, as per Sub paragraphs a), b) and c) under Settlement of Claims under Clause No.23.2:

Settlement of Claims:

Settlement of Claims for Rs.50,000/- and below by Arbitration.

All disputes or difference arising of or relating to the Contract shall be referred to the adjudication as follows:

a) Claims up to a value of Rupees 20,000/-. – Superintending Engineer.

b) Claims above Rs.20,000/- and up to Rupees 50,000/- - Another Engineer-in-Chief

The arbitration shall be conducted in accordance with the provisions of Indian Arbitration and Conciliation Act, 1996 or any statutory notification thereof. The arbitrator shall state his reasons in passing the award.

c) Claims above Rs.50,000/-

All claims of above Rs.50,000/- are to be settled by a Civil Court of competent jurisdiction by way of Civil Suit and not by arbitration."

4. Learned counsel for the appellant contended that though respondent No.3 through letter, dated 20.12.2021 and respondent No.2 through letter dated 21.12.2021 recommended Administrative Sanction, respondent No.1 without taking into consideration the said recommendation passed the impugned Memo, dated 07.03.2022 without assigning any reasons and especially, without giving any opportunity to the appellant and the same is gross violation of the principles of natural justice and contrary to law.

5. *Per contra,* learned Additional Advocate General appearing on behalf of respondent Nos.3 to 5 contended that respondent No.3 has not recommended the claims of the appellant and respondent No.1 rightly issued the impugned memo, dated 07.03.2022. He further contended that the dispute between the appellant and respondents is purely contractual dispute and as per the terms and conditions of the Agreement entered by the parties, the appellant ought to have approached the competent civil Court and the learned Single Judge has rightly dismissed the Writ Petition.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the appellant filed writ petition questioning the impugned memo dated 07.03.2022 issued by respondent No.1 deferring the proposals to utilize the saving of less tender premium for additional works within administrative sanction for construction of Minority Residential School Complex at Antharam Village, Tandur Mandal, Vikarabad District under Prime Minister Jan Vikas Karyakram (MSDP) Programme and also sought consequential relief to release the amount of Rs.172.81 lakhs and other reliefs.

7. Admittedly, the dispute raised by the appellant is purely contractual dispute between the appellant and respondents and no