

\$~18.

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 12529/2021

SHRI BALAJI EXIMS

..... Petitioner

Through: Mr. N. Hariharan, Senior Advocate  
with Mr. Kamal Mehta, Mr. Siddharth  
S. Yadav, Ms. Akriti Mittal and Mr.  
Prateek Bhalla, Advocates.

versus

PWD GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Rahul Mehra, Senior Advocate  
with Mr. Anuj Aggarwal, ASC,  
GNCTD, Mr. Chaitanya Gosain,  
Mr.Sanyam Suri and Ms. Arshya  
Signh, Advocates for R-1 & 2.  
Mr. Farman Ali, Special Panel  
Counsel with Mr. Krishan Kumar and  
Ms. Usha Jomnal, Advocates for  
UOI.

**CORAM:**

**HON'BLE MR. JUSTICE GAURANG KANTH**

**ORDER**

**24.03.2023**

%

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Learned counsel for the petitioner states that he has undertaken the following works for the COVID care facility offering 10,000 beds to the patients of the Sardar Patel COVID Care Centre on an emergent basis within 17 days:-

*“Air conditioning, donning and doffing of the roof, water*

*proofing of the roof, electricals to the entire system, infrastructure for the blood banks for the COVID care facility”.*

2. The respondent took over the project and inaugurated the same on 05.07.2020 with much fanfare and the publicity.

3. Political Parties took credit for the construction of the first COVID Care Centre in the city consisting of 10,000 beds.

4. Mr. N. Hariharan, learned Senior Counsel for the petitioner submits that after the inauguration of the project, it received a lot of global applaud for being country's largest COVID-19 facility Centre. When the petitioner approached the respondent for issuance of work order and preparation of the necessary and protocol driven paper work, the respondent went completely silent and non-responsive to the claims of the petitioner. Hence, the petitioner has preferred the present writ petition, *inter alia*, praying for the following reliefs:-

*“a) A writ of mandamus and/ or any other writ, order &/or direction of a similar nature directing the Respondents to expeditiously complete & process the paperwork in a time bound manner including issuance of the work orders enabling the petitioner to submit its bills & invoices for payments for the work already accomplished / completed for constructing and maintaining infrastructure at the Sardar Patel Covid Care Centre offering 10,000 beds to patient located at the Radha Swami Satsang Beas, Chattarpur, New Delhi.*

*b) A writ of mandamus and/ or any other writ, order &/or direction calling for record and / or relevant documents pertaining to the proposal & the spot quotations and execution / completion of the work for constructing and maintaining infrastructure at the Sardar Patel Covid Care Centre, which erstwhile was India's largest Covid*

*Care Facility offering 10,000 beds to patients which is located at the halls under the proprietorship of the Radha Swami Satsang Beas, Chatarpur, New Delhi. respect of Radha Swami Satsang Covid Care Center.*

*c) A writ of mandamus and any other order, direction & or writ of the similar nature directing the respondent to expeditiously process the bills & invoices of the petitioner upon its submission in a time bound manner.*

*d) Such other order &/or direction which this Hon'ble Court may deem just fit and proper in the fact & circumstances of the case & in the interest of justice.”*

5. Respondent No. 1 filed its short affidavit dated 15.02.2022 stating, *inter alia*, as follows:

*“6. That it is submitted that on 21.06.2020 Answering Respondent viz. PWD, GNCTD of Delhi was informed by the then PWD Secretary that some Covid Centre was being developed at Radha Swami Satsang Beas, Chattarpur in the existing open hall of size 1700x700 sq. ft. The Principal Secretary, PWD further directed to visit the site immediately and to offer technical assistance by the Answering Respondent for the work of providing temporary air conditioning system of the Radha Swami Satsang Hall.*

*Accordingly, a team of the following PWD officers visited the site on 21.06.2020 for inspection.*

- 1. ADG (Projects) – Sh. Anil Kumar Ahuja*
- 2. SE(Health)-1 – Sh. Ajay Kumar*
- 3. SE(E) Health – Sh. M.K. Sonkar*
- 4. EE(C), HPD – Sh. Vishal Nim*

*7. That it is submitted that the above PWD officers met Miss Sonalika, the then SDM on that day who informed the officers that temporary air conditioning work of the hall is to be done and accordingly the estimate may be submitted by PWD. On the same day, it*

*was also noticed by the officers of the Answering Respondent that some work related to providing temporary air conditioning system as stated was already in progress.*

*8. That it submitted that a requisition dated 22.06.2020 was received by the Answering Respondent from the Ld. DM (South) for providing air conditioning system for 10,000 bedded Covid Care Centre in the existing asbestos roof structure of size approximately 1700 x 700 sq.ft. A preliminary estimate was prepared accordingly.*

*9. That it is submitted that the following PWD officers again visited the site on 23.06.2020:*

- 1. E-in-C, PWD – Sh. Shashi Kant*
- 2. ADG (Projects) – Sh. Anil Kumar Ahuja*
- 3. SE(Health)-II – Sh. R.K. Malhotra*
- 4. SE(E) Health – Sh. M.K. Sonkar*
- 5. AE(E) Planning – Sh. Anirudh Das Pandit*

*10. That it is further submitted that the PWD Engineers went to the site and took some pictures of the site on 25.06.2020 and 26.06.2020 which clearly showed that the work of providing the temporary air conditioning system was in fast progress.*

*11. That it is, therefore, most respectfully submitted that the work of air conditioning was already in progress at the time when requisition of work was given to the PWD on 22.06.2020 as per the instructions of District Magistrate (South). However, PWD Engineers had only provided technical assistance from time to time as per requests of the DM (South).*

*12. That it is submitted that in the absence of sanction of Administrative Approval & Expenditure Sanction, no work order has ever been issued by PWD, Delhi to execute the work. Therefore PWD is not in a position to process the invoices raised by the Petitioner.”*

6. Subsequently, the respondent No. 1 again filed a detailed counter affidavit reiterating that they have not received any administrative approval and expenditure sanction from the Competent Authority, i.e. Office of the Divisional Commissioner (Revenue) in respect of the spot quotation/tender dated 27.06.2020. It is the stand of the respondent No. 1 that without administrative approval and expenditure sanction from the Deputy Commissioner (Revenue) they cannot process the petitioner's case for awarding the work orders. During the course of arguments, it is also submitted by the learned counsel for the respondent No. 1 that the present on the spot quotation/tender was in violation of the CPWD Rules as well as Department of Expenditure Rules.

7. The short affidavit and the counter affidavit filed by the respondent No. 1 reflect a very sorry state of affairs. Respondent No. 1 categorically admitted in both the affidavits that the petitioner had undertaken the work of air-conditioning, donning and doffing of the roof, water proofing of the roof, electricals to the entire system, infrastructure for the blood banks for the COVID care facility as per the spot quotation/tender dated 27.06.2020 issued by GNCTD for which the respondent No. 1 had extended the necessary technical support for the same. Based on the promises made on behalf of the Government of NCT of Delhi, the petitioner incurred expenses and carried out the work of air-conditioning, donning and doffing of the roof, water proofing of the roof, electricals to the entire system, infrastructure for the blood banks at the India's largest COVID care facility. However, inspite of clear admission, respondent No. 1 is not processing the petitioner's case for issuance of work order and preparation of the necessary protocol driven paper work because the Administrative approval and

expenditure sanction from the Competent Authority is still not available.

8. Once it is admitted that the petitioner has undertaken the work of air-conditioning, donning and doffing of the roof, water proofing of the roof, electricals to the entire system, infrastructure for the blood banks of the Sardar Patel COVID care facility based on the spot quotation/tender dated 27.06.2020 issued by the Government of NCT of Delhi, petitioner cannot be left to bear the expenses incurred by them subject to the verification as pointed out by the learned counsel for the respondent for creating the World-class COVID Care Centre. It is to be noted that in an emergent situation, Government of NCT of Delhi had used the services of the petitioner in constructing one of the largest COVID care facility. The construction of COVID care facility was applauded not only within the country but also all across the globe for the commitment which the petitioner has shown towards the citizens of this city. In spite of having undertaken the work of providing the services of Air conditioning, donning and doffing of the roof, water proofing of the roof, electricals to the entire system, infrastructure for the blood banks for the COVID care facility”, the respondents have till date failed to even issue the work order to the petitioner for the work undertaken by it in construction of the so-called largest COVID care facility during such testing times. Even after two years of successful completion of the work, the petitioner’s case for issuance of work orders has not seen the light of the day and the respondents are passing buck from one Department to another.

9. *Prima facie*, it appears to this court that the respondents are trying to avoid their responsibility for making payments towards the construction of the largest COVID care facility with 10,000 beds.

10. In these circumstances, this court is left with no other option but to

direct the Chief Secretary, GNCTD to examine the matter in co-ordination with the various Departments involved in the process, and to take appropriate decision keeping in mind the admissions made by the respondents in their affidavits.

11. This court directs the Chief Secretary, GNCTD to consider the fact that the petitioner has incurred expenses in providing the services of air-conditioning, donning and doffing of the roof, water proofing of the roof, electricals to the entire system, infrastructure for the blood banks for constructing the COVID care facility centre as per the spot quotation/tender dated 27.06.2020 issued to them by GNCTD. Chief Secretary, GNCTD is directed to file an affidavit within three weeks clearly bringing out the stand of the GNCTD in respect of the case of the petitioner.

12. The respondents are also directed to make available the original file pertaining to the present matter for the perusal of this court on the next date of hearing.

13. List on 21.04.2023.

14. The Chief Secretary is directed to process the necessary work order and relevant approval if the case of the petitioner warrants the same.

**GAURANG KANTH, J**

**MARCH 24, 2023**

*MS*