

अंडमान तथा निकोबार प्रशासन
मुख्य अभियन्ता का कार्यालय
अंडमान लोक निर्माण विभाग
निर्माण भवन पोर्टब्लेयर



ANDAMAN AND NICOBAR ADMINISTRATION
OFFICE OF THE CHIEF ENGINEER
ANDAMAN PUBLIC WORKS DEPARTMENT
NIRMAN BHAWAN, PORT BLAIR.

Dated the 29 August 2016

OFFICE ORDER NO: 1096

Whereas Shri S.K. Biswas is enlisted as Class III contractor in APWD and his last revalidation period was for the period from 04/04/2012 to 03/04/2015 Vide order No. 505 dated 04th May 2015.

Whereas the Contractor could not secure the work within the revalidation period i.e. 04/04/2012 to 03/04/2015 the contractor submitted representation to participate in tender process for a period of one year in order to secure the required work for revalidation of enlistment accordingly he was given extension for one year vide this office letter dated 28/5/2015 wherein "it was stated that the contractor shall be allowed to participate in tender process for a period of one year from the date of issue of letter with the condition to fulfill the criteria of work experience and to submit the complete proposal for revalidation of enlistment in class III(Civil) in APWD within this one year period. In case the contractor becomes the lowest tenderer the work shall be awarded only with the approval of Chief Engineer, APWD.

Whereas the contractor stood lowest for three works and the proposal was forwarded to the Chief Engineer for approval. The Chief Engineer rejected the proposal vide this office letter dated 4th July 2016. Stating that as per Enlistment Rule 19 the contractor had failed to fulfill the criteria of work experience during the last revalidation period i.e 04/04/2012 to 03/04/2015 .

Aggrieved by this office letter dated 4th July 2016 the Contractor approached Hon'ble High Court wherein Hon'ble High Court passed an order dated 19.07.2016 in WP No. 12494(W) of 2016 wherein it is stated as "It appears that the aforesaid rule was observed to be unreasonable by a Division Bench of this Court and the Lieutenant Governor was directed to consider the said issue. Pursuant to the direction, the Lieutenant Governor also expressed view that the said rule was invalid and directed the authorities to reconsider the same. Such facts are evident from the observations made by a learned Single Judge of this Court in the order dated 30.6.2016 in WP 11554(W) of 2016 is also not disputed by the learned Advocate appearing for the respondent authority that an Hon'ble Division Bench of this Court had held the aforesaid rule to be unreasonable and such view was also accepted by the Lieutenant Governor. In view of the aforesaid circumstances, I am of the opinion that the respondent authority ought not to have relied on the said rule for refusing to revalidate the enlistment of the petitioner. Accordingly the impugned decision dated 4th July 2016 is set aside. Prayer of the petitioner for revalidation of enlistment be reconsidered by the respondent no 3(Chief Engineer, APWD) in accordance with law and de hors Rule 19 of APWD Enlistment Rules 2009 and appropriate decision be taken thereon within four weeks from the date of communication of this order after giving an opportunity of hearing to the petitioner".

Accordingly, hearing was held on 10.8.2016 wherein it was stated by the Advocate appearing on behalf of the petitioner stated that the contractor had secured one work ₹. 87.00 lakh during the period of revalidation. But Chief Engineer stated that the work was secured during the period prior to the last revalidation period and could not be considered.

Contd../

Whereas the Hon'ble High Court referred to order dated 30.6.2016 passed in WP 11554(w) of 2016 (Surendra Infrastructure (Pvt.) Ltd Vs Hon'ble Lt.Governor, A&N Islands & others) wherein order dated 27.8.2014 passed in MA no. 37 of 2014 (Surendra Infrastructure (Pvt.) Ltd Vs Hon'ble Lt.Governor, A&N Islands & others) is mentioned, in the particular case the Contractor had secured one work of ₹. 20.00 crore, but the criteria for revalidation was to secure two work ₹. 1.50 crore each and Hon'ble Court directed to review Rule 19, accordingly Hon'ble Lt. Governor passed an order dated 15.4.2015 to revisit the Rule 19.

Whereas in the above case magnitude of work was more than the required as per the Enlistment Rule and the Rule 19 if amended shall be in terms of magnitude of work, in the instant case the Contractor could not secure any work of any magnitude during the last revalidation period. Hence his case cannot not be considered in terms of any amendment in Rule 19. Hence his case for revalidation could not be considered for revalidation.

This order is issued in compliance with Hon'ble High Court order dated 19.07.2016 passed in WP No.12494(W) of 2016.


This issues with the approval of Chief Engineer

Finance Officer to Chief Engineer,
(F. No. 63(10)(24)/CE/APWD/Class-II-IV/2015-16/FIN)

OFFICE ORDER BOOK

✓ Copy to:

1. The party concerned by post.
2. All the Superintending Engineers under APWD, Port Blair.
3. The Superintending Engineer, Electricity Department, Port Blair.
4. The Superintending Engineer, Zilla Parishad, Port Blair.
5. The Superintending Engineer, PBMC, Port Blair.
6. The Chief Engineer, Project Yatrict c/o 99 APO.
7. The Chief Engineer, MES, Port Blair.
8. The Chief Engineer and Administrator, ALHW, Port Blair.
9. The Assistant Commissioner of Income Tax, A & N Islands, Port Blair.
10. All the Executive Engineers under divisions of APWD.
11. AE, ISSD, APWD Kolkata.
- ✓ 12. The Executive Engineer, E&M (Plg), O/o CE, APWD with the request to upload the order in APWD website
13. The Deputy Secretary (PW), A & N Administration, Port Blair.
14. Smti. Anjili Nag, Govt. Panel Advocate, District and Session Court Complex, Port Blair for information.
15. Shri. Bhaskar Prosad Banerjee, Ld. Advocate, 7, Old Post Office Street, Kolkata-700001.
16. Shri. Tapan Kumar Das Advocate, B.E.L.L.B, Prem Nagar, PO Haddo, Port Blair.


Finance Officer to Chief Engineer,
APWD, Port Blair
26/8/16