

अंडमान तथा निकोबार प्रशासन

मुख्य अभियन्ता का कार्यालय

अंडमान लोक निर्माण विभाग

निर्माण भवन पोर्टब्लेयर



Tele-fax: 03192 - 232444

ANDAMAN AND NICOBAR ADMINISTRATION

OFFICE OF THE CHIEF ENGINEER

ANDAMAN PUBLIC WORKS DEPARTMENT

NIRMAN BHAWAN PORT BLAIR.

Dated /7 July 2017

ORDER No. 863

Whereas M/s Surendra Infrastructure Pvt. Ltd is enlisted as Class-I contractor in APWD. The firm submitted his case of Revalidation but his case was not considered by the Enlistment Board as the firm did not fulfil the criteria of work experience. In terms of Enlistment Rule of contractors in APWD 2009 Rule 19 the contractor have to secure two work of appropriate magnitude in this case the contractor have to secure two works Rs 1.5 crore each. But the contractor could secure only one work of Rs 20.15 crore. Hence his revalidation case was not considered by the Enlistment Board.

Aggrieved by this the contractor approached Hon'ble High Court of Calcutta filed a writ petition WP No. 147 of 2014 wherein an order dated 15.7.2014 was passed by the Hon'ble High Court of Calcutta at Port Blair stating that "Although it is true that the petitioner has secured a work of 'appropriate magnitude'(as applicable for enlistment in relevant class)-which is more than Rs 20 crores in value-the fact remains that under Rule 19, the contractor has to secure two such works of 'appropriate magnitude'. Admittedly the petitioner could not secure two works of 'appropriate magnitude'. There is no scope under Rule 19 for revalidation of enlistment, in the event the contractor secures one work, even if such a work is substantially higher in value relating to 'appropriate magnitude' (of two or more works). As such, the rejection for revalidation of enlistment of the petitioner by the concerned authority of Andaman Public works Department cannot be held to be bad in law. The writ petition is therefore liable to be dismissed and is accordingly dismissed".

Whereas the Contractor again filed an MA 37 of 2014 in Hon'ble High Court of Calcutta at Port Blair challenging the order dated 15.7.2014 passed in WP No 147 of 2014, thereafter Hon'ble High Court of Calcutta passed an order dated 27.08.2014 wherein the Hon'ble High Court had set aside the order of the learned Single Judge of High Court and disposed of the appeal by requesting the Hon'ble Lt.Governor, A&N Islands, Port Blair, to pass a reasoned order after giving an opportunity of hearing to the appellant within a period of six weeks from the date of receipt of a copy of this order.

Whereas, Shri. Surendra Kumar Prahladka, Director, M/s Surendra Infrastructure Pvt. Ltd, had attended the hearing on 17/10/2014. The matter was discussed with reference to the existing APWD Enlistment Rule -2009 and it was observed that the rule provision for enlistment and revalidation of enlistment are different and the petitioner had submitted the proposal for revalidation of enlistment.

(Contd..2)

Whereas the proposal of the petitioner for revalidation of enlistment was checked with regard to the Rule -19 of APWD Enlistment Rule 2009 which states that –“Only the contractor who has secured at least two works (see Para 24.0 also) of appropriate magnitude (as applicable for enlistment in relevant class) in APWD, during the period of enlistment or last revalidation period of enlistment as the case may be shall be considered for revalidation. Appropriate magnitude shall mean the minimum amount mentioned in the column 5 of Table-1 against relevant class/category.

Further as per amendments in Table -1 of APWD Enlistment Rule 2009 the appropriate magnitude in respect of class-I (civil) is 1.5 crores”. From the above provisions it is very clear that a firm/contractor enlisted in Class-I (Civil) in APWD has to secure atleast two works of 1.5 crores each, apart from other criteria for the purpose of getting revalidation of his enlistment.

Whereas after personal hearing, Hon’ble Lt. Governor issued an Speaking order dated 15.4.2015 wherein it was stated that “I am inclined to accept the contentions of the petitioner to the effect that Rule 19 needs to be reviewed as it appears unfair and unjust to debar or hold an applicant ineligible for enlistment as class I contractor on grounds that he did not secure two orders of ₹ 1.5 crores rupees whereas he had secured a single order worth ₹ 20.00 crores rupees which is much more than stipulated requirement. In my view, Rule 19 in its present form cannot be sustained and needs to be revisited. I therefore, direct the APWD to review the provision of Rule 19 in consultations with the Law Department within a month of this order. In the meantime the petitioner firm be taken up for enlistment provisionally”.

Whereas, the contractor was given provisional revalidation of enlistment for 12 months w.e.f 26 May 2015 to 25 May 2016 giving another opportunity to fulfil the requirement of work as per APWD Enlistment Rule 2009 within the period.

Whereas, the matter was submitted to Hon’ble Lt. Governor to consider the case of Revalidation as special case. The Hon’ble Lt. Governor didnot consider the proposal and returned the file stating that “it is for the APWD to see whether there is good reason to consider any change in the provisions of Rule 19 so as to provide for such cases as is the case of the petitioner and directed to review the matter.”

Whereas in the meantime the 12 months provisional revalidation expired and the contractor was unable to secure any work, the contractor filed an WP No. 11554(W) of 2016 in Hon’ble High Court of Calcutta thereafter an order dated 30.6.2016 was passed in WP No. 11554(W) of 2016 wherein it was directed that the petitioner be allowed to participate in tenders till such time the APWD passes an appropriate order upon revisiting Rule 19 in compliance with the order of the Hon’ble Lt. Governor.

Now, therefore since the new enlistment rule of contractor in APWD has already been notified vide notification dated 19.06.2017 and therefore the revalidation of the petitioner in the present form cannot be acceded to. The petitioner may apply as new enlistment in the appropriate class as per the new Enlistment Rule of Contractors in APWD, 2017.

This is issued in compliance to the Hon'ble High Court of Calcutta order dated 30.6.2016 passed in WP No. 11554(W) of 2016 in respect of M/s. Surendra Infrastructure Pvt. Ltd. V/s the Lieutenant Governor and others.

This issues with the approval of Hon'ble Lt. Governor being the Enlistment Authority.


sdl/

Finance Officer to Chief Engineer,
(F.No.63 (10)/2014-15/CE/APWD/FIN/)

OFFICE ORDER BOOK

Copy to:

1. The party concerned by Regd 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. Shri Mohd Tabrez, Govt. Panel Advocate, District and Session Court Complex, Port Blair for information.
15. Shri. Bhaskar Prosad Banerjee, Govt. Pleader, Kolkata through Deputy Residence Commissioner, Office of A & N Administration, At Kolkata Andaman Bhavan, No.7, D.P. Block Sector 5, Salt Lake, Kolkata-91 for information.
16. Shri Tapan Kr.Das, Advocate, Prem Nagar, Port Blair.


Finance Officer to Chief Engineer,
APWD, Port Blair
9/10/17
bj