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

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

OFFICE ORDER NO: 135 *Dated:* 02nd Feb. 2018

Whereas, M/s Shri P.Surya Rao(Partner: Shri. P. Surya Rao, Shri. P. Suresh, Shri. P. Ramesh and Shri. P. Rajesh) and M/s. Prashanth Erector and Builders Private Limited (Director: Shri. P. Surya Rao, Shri. P. Ramesh and Shri. P. Rajesh) both are enlisted as Class-I(Civil)Contractors in APWD vide order No. 378 dated 31.3.2014.

Whereas, while reviewing the validity of the enlisted contractors it was observed that some of the partners & directors of M/s P. Surya Rao (Partners:Shri P. Surya Rao, Shri. P. Suresh, Shri. P. Ramesh and Shri. P. Rajesh) and M/s. Prashanth Erector and Builders Private Limited (Director: Shri. P. Surya Rao, Shri. P. Ramesh and Shri. P. Rajesh) are found same.

Whereas, it is observed that Shri. P. Surya Rao, Shri. P. Ramesh and Shri. P. Rajesh are Partners as well as Directors of M/s P. Surya Rao and M/s. Prashanth Erector and Builders Private Limited respectively.

Whereas, in terms of Clause 4.5 of Rule of Enlistment of Contractors in APWD 2009, which stipulates that a Partner of a firm or a Director of a company enlisted as a contractor cannot be a Partner/Director in any other enlisted firm/company in APWD.

Whereas, a show cause notice No. 63(10)/15-16/CE/APWD/FIN/5956 dt 28.12.2015 and was served to M/s P. Surya Rao and M/s. Prashanth Erector and Builders Private Limited to explain why action should not be taken to remove your name from the approved list of Contractor in APWD in accordance to rule 4.5 read with rule 23.3 of APWD Enlistment Rule 2009.

Whereas, in reply to show cause notice dated 28.12.2015 M/s. Prashanth Erector and Builders Private Limited and M/s P. Surya Rao vide their letter dated 06.01.2016 stated that the Enlistment of M/s. Prashanth Erector and Builders Private Limited expired on 06.01.2016 and henceforth there will be only one firm i.e. P Surya Rao(Partner: Shri. P. Surya Rao, Shri. P. Suresh, Shri. P. Ramesh and Shri. P. Rajesh).

Whereas, the matter has been examined in the Enlistment Board meeting and it was observed that the firm had violated the clause 4.5 of Enlistment Rule of Contractors of APWD 2009 and recommended to take action as per clause 23.3(d) of Enlistment Rule.

Whereas, a speaking order issued vide O/o 794 dt 04.07.2017 wherein it was stated that "the firms have violated the Clause 4.5 of Enlistment Rule of APWD 2009, the name of the firms M/s P. Surya Rao and M/s. Prashanth Erector and Builders Private Limited is removed from the approved list of Contractors in APWD in accordance to Clause 23.3(d) of Enlistment Rule of Contractors of APWD."

Whereas, being aggrieved by this, the firm M/s P Surya Rao approached Hon'ble High Court of Calcutta filed a writ petition WP No. 232 of 2017 wherein an order dated 14.12.2017 was passed by the Hon'ble High Court of Calcutta at Port Blair stating that there has been a technical breach of the Enlistment Rules and in particular 4.5 thereof on the part of the petitioner-firm yet no unholy or dishonest motive can be attributed to the petitioner-firm. The penalty of cancellation of the enlistment of the petitioner-firm is a disproportionate punishment imposed on the petitioner-firm for the technical breach of the Enlistment Rules particularly when no financial loss has been caused to the Administration by reason of such technical breach and no illegal gain has been made by the petitioner-firm. The authorities take a fresh decision in the matter in light of the observations made in this order.

It is expected that the authority shall take a lenient view of the matter and shall consider the case of the petitioner sympathetically. The authorities shall take a fresh reasoned decision in the matter for renewal of enlistment of the petitioner-firm in accordance with the applicable rules within a period of four weeks from the date of communication of this order after giving an opportunity of hearing to the petitioner or to the authorized representative of the petitioner-firm. The decision so taken by the authorities shall be communicated to the petitioner-firm within a week from the date of the decision.

Whereas, the proposal for revalidation of enlistment was placed before the Enlistment Board on 03.01.2018, wherein the petitioner was given opportunity of hearing on 05.01.2018. The Enlistment Board was of the considered view that the firm violated the clause 4.5 of Enlistment Rule, 2009 during its last revalidation period i.e. wef 19.11.2013 to 18.11.2016 vide revalidation O/o 378 dt 31.03.2014. Hence, his case of revalidation could not be considered in terms of Enlistment Rule of Contractors and he may apply for fresh enlistment in Class-I (Civil) contractor in terms of the existing Rule if eligible.

Now therefore, the revalidation of the firm could not be considered in terms of Enlistment Rule of Contractors, 2017 and he may apply for fresh enlistment in Class-I (Civil) contractor if otherwise eligible. This order is issued in compliance to Hon'ble High Court of Calcutta order dated 14.12.2017 passed in WP No. 232 of 2017 and with the approval of the Hon'ble Lt.Governor being the Competent for Enlistment.

Finance Officer to Chief Engineer,
APWD, Port Blair.
F.No.63(10)/2015-16/CE/APWD/FIN

OFFICE ORDER BOOK

Copy to:

1. M/s P Surya Rao,109, MG Road, Middle Point,Port Blair 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 N A Khan, 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 Krishna Rao, Advocate, Shadipur, Port Blair.

Finance Officer to Chief Engineer,
APWD, Port Blair