

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

Dated 11th September, 2023

OFFICE ORDER NO. 595

Whereas, WPA No.732 of 2023 (O.P. Kandoi-vs-UOI & Ors) has been disposed of by the Hon'ble Calcutta High Court vide order dated 15.06.2023 with the direction upon the respondent authority to re-examine the decision of Enlistment Authority communicated vide Office Order No.24173 dated 29.05.2023 suspending business with the petitioner (contractor) for a period of 2 years from the date of issuance of the aforementioned office order. The operative part of the order is as under:-

"WPA No.732 of 2023 is disposed of by setting aside the impugned order of delistment of the petitioner dated May 29, 2023 vide Office Order No.24173 and directing the respondent-authorities to serve copies of the relevant documents on which the respondent-authorities seek to rely for the purpose of considering the proposal of delistment of the petitioner.

That apart, the respondent-authorities shall upon sufficient advance notice to the petitioner and service of copies of the relevant documents as directed above, give an opportunity of hearing to the petitioner and only after giving such opportunity and considering the reply and the arguments made by the petitioner, shall decide the issue afresh and in accordance with law.

The respondent-authorities shall also consider the question as to whether such belated reopening of the issue against the petitioner could be undertaken, particularly keeping in view the fact that the petitioner had already been paid his dues and the security amounts were released in his favor long back.

However, it is made clear that nothing in this order shall influence the respondent-authorities, insofar as the merits of the allegations against the petitioner and counter-allegations are concerned which will be entirely within the domain of the respondent-authorities to decide the following due process of law.

It is expected that the entire exercise shall be completed by the respondent-authorities at the earliest, preferably within three months from this date".

And Whereas, M/s. O.P. Kandoi & Company (P) Ltd is enlisted as Class- I Govt. Contractor (civil) vide Order No.274 dated 14.03.2019 and was awarded the work for providing and fixing of Retro -reflective Road Signage Boards against agreement No. 35 of 2005-06.

And Whereas, a grievance was uploaded in HLG Help Desk Grievance No. 7114 dated 05.11.2018 against the work "Supplying and fixing of Road Signage Boards" in South Andaman which was awarded by SAD, APWD to M/s. O.P. Kandoi & Company (P) Ltd, Govt. Contractor without obtaining Administrative Approval and expenditure Sanction. The HLG Grievances was forwarded to the ACU, Port Blair.

And Whereas, an enquiry had been conducted by the Anti-Corruption Unit, A&N Administration in this instant matter wherein it is mentioned to initiate action against the contractor as per relevant rules. It has been concluded in the enquiry report that the Govt. Contractors works didn't perform their duties as per the provisions contained in CPWD Manual, GFRs and as per the terms of agreement 35 of 2005-06.



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And Whereas, in the enquiry report it was clearly mentioned that the retro-reflective signage board with messages (bilingual) and as per IRC 67-2001 should be supplied. But during inspection of materials stacked at the different section offices of SAD, APWD and CD-III by Enquiry Officer along with AE (Technical) of ACU, it is found that the messages written in the signage boards supplied by O.P. Kandoi & company (P) Ltd vide Agreement No.35 of 2005-06 are in unilingual i.e English only with blue background.

And Whereas, as per the ACU report that the contractor M/s. O.P. Kandoi & Company (P) Ltd didn't provide the Retro-reflective road signage boards as per the agreement or standard of IRC 67-2001.

And Whereas, after examining the merit of the case and on the recommendation of the Enlistment Board for Class-I contractors in APWD, and in accordance to Rule 23.4 of Enlistment (Amendment) Rules of Contractors in APWD-2018, the Enlistment Authority has suspended the business with the contractor for a period of two years from the date of issue of order vide No.24173 dated 29.05.2023.

And Whereas, being aggrieved by the aforesaid order the petitioner had filed a writ petition in the High Court at Calcutta Constitutional Writ Jurisdiction Circuit Bench at Port Blair vide WPA No.732 of 2023 and the verdict issued by the Hon'ble High Court vide above referred order directed the Respondent Authorities to serve copies of relevant documents on which the respondent authorities relied for the purpose of considering the proposal of delistment of the petitioner and upon sufficient advance notice to the petitioner and service of copies of the relevant documents, give an opportunity of hearing to the petitioner and only after giving such opportunity and considering the reply and the arguments made by the petitioner shall decide the issue afresh and in accordance with law.

And Whereas, in compliance to Hon'ble High Court verdict dated 15.06.2023 the personal hearing has been fixed on 13.07.2023 at 04.00 PM. In the meantime, the petitioner has submitted a representation dated 13.07.2023 requested to award another date of hearing in order to go through the documents and file his reply. Accordingly, considering his request this office has rescheduled the hearing on 25.07.2023 at 04.00 PM in the chamber of CE, APWD.

And Whereas, during the hearing the petitioner has furnished written submission containing 4 pages of main letter and 13 pages of its enclosures vide L.No. OPK/116/2023-2024 dated 25.07.2023 addressed to Finance Officer to Chief Engineer with a copy to Chief Engineer, APWD. The following facts and figures/comments against the reply furnished by the firm are produced below:

- Whereas, with respect to the Jurisdiction, the instant proceeding for delistment was initiated based on the recommendation of Anti Corruption Unit Enquiry report and as per the observation of Hon'ble Lt. Governor, A&N Islands. Further, with the recommendation of Enlistment Board Members for Class-I Category of Contractors and with the approval of the Enlistment Authority (HLG) the delisting notice was issued.
- Whereas, on Compliance with Agreement, the department is of the view that as per the ACU Enquiry report at clause 8.2.2 it is clearly mentioned that the Road Signage Boards supplied by the petitioner vide agreement No.35 was against the agreement or the standard of IRC 67-2001 which is also endorsed by EE, SAD vide L.No.1983 dated 13.12.2021 and SE, PBCC vide L.No.2670 dated 28.12.2021 respectively.

- Whereas, with regard to timely Completion of Work, it is seen that instead of supply of bilingual retro reflective signage boards the firm had supplied unilingual signage boards only with blue background which is tantamount to breach of contract /agreement No.35 of 2005-06 which is also substantiated by EE, SAD vide L.No.1983 dated 13.12.2021 and SE, PBCC vide L.No.2670 dated 28.12.2021 respectively.
- Whereas, for the point in change in specification, it is clearly mentioned in the agreement No.35 of 2005-06 the firm had to supply Retro-reflective signage boards in bilingual language, whereas the petitioner had supplied unilingual signage boards only with blue background which is breach of contract/agreement No.35 of 2005-06.
- Whereas, in connection with materials supply and fixing, the department is of the view that as per the ACU report the materials supplied by the petitioner was against the agreement or standard of IRC 67-2001. Further, the EE, SAD also certified the allegation that the firm had supplied only monolingual signage boards instead of bilingual signage boards vide L.No.1983 dated 13.12.2021 which is tantamount to breach of contract/agreement.
- Whereas, as regard to the delay caused by others, it was onus of the petitioner to supply the Retro-reflective signage boards in bilingual language, whereas the petitioner has supplied only unilingual signage boards which is tantamount to breach of contract/agreement No.35 of 2005-06.
- Whereas, on compliance with drawing, it is seen that as per the agreement No.35 of 2005-06 the firm had to supply Retro-reflective signage boards in bilingual language, whereas the petitioner had supplied unilingual signage boards only with blue background which is tantamount to be as breach of contract/agreement No.35 of 2005-06.
- Whereas, as far as for the point of enlistment rules and jurisdiction, based on the recommendation of ACU report and as per the observation of HLG the department initiated action against the firm as per Rule 23.4 of Enlistment (Amendment) Rule of Contractors in APWD, 2018 not in accordance to rule 23.2, hence the question of empowered committee doesn't arise.
- Whereas, about the unfair enquiry report, the department is of the view that the enquiry has been conducted by the ACU uploaded in HLG Helpdesk Grievance No.7114 dated 05.11.2018. Wherein, the enquiry report clearly state that the petitioner had supplied Retro-reflective signage boards in unilingual language instead of bilingual language which is against the prescribed specification of agreement or the standard of IRC-67-2001 which is in breach of contract/agreement No.35 of 2005-06. Further, ample time was provided to the firm to submit the reply on their part against the show cause notice.
- Whereas, with regard to passage of time, the department is of the view that since the govt. exchequer were involved in the case the prolonged passage of time related to the work in question dates back to 2006 which is nearly 17 years ago doesn't arise.

Further, it is not clear from his written submission where the petitioner had submitted RTI application dated 31.05.2023 and the copy of architectural/drawing issued by the department was actually withheld or not.



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- Whereas, in context to no loss to the department, it is seen that as per the agreement No.35 of 2005-06 or Standard IRC 67-2001 the firm had to supply the Retro-reflective signage boards in bilingual language, whereas the petitioner had supplied unilingual signage boards only with blue background which is tantamount to breach of contract/agreement No.35 of 2005-06.
- Whereas on disparity in actions, appropriate action has been initiated against the concerned officials as per the relevant rules of the central govt. employees.


Now therefore, in view of the written submission of the petitioner, the matter has been examined with the relevant Enlistment Rules of Contractors in APWD- 2017, the undersigned of the view that the decision to suspend the business with the petitioner for a period of 02 years as contained in the office order No.24173 dated 29.05.2023 by the Enlistment Authority (HLG) is based up on the testimonials of Anti Corruption Unit and holds good.

This order is issued in compliance to Hon'ble High Court of Calcutta order dated 15.06.2023 passed in WPA No.732/2023.


Chief Engineer
APWD, Port Blair

(G/2/2023-Section FO to CE-APWD-APWD_AN)

OFFICE ORDER BOOK


11/06/23

1. M/s. O.P. Kandoi & Company (P) Ltd., Govt. Contractor, Opp. Junglighat School, Port Blair. Ph.9434280994/9933280994/03192-244131,231725 by registered post.
2. The Director (RD), Panchayat & PRIs, A&N Administration, P/Blair for information.
3. All the Superintending Engineers under APWD, Port Blair
4. The Superintending Engineer, Electricity Department, Port Blair
5. The Superintending Engineer, Zilla Parishad, Port Blair
6. The Superintending Engineer, N&M Andaman, Mayabunder
7. The Superintending Engineer, PBMC, Port Blair
8. The Chief Engineer, MES, Port Blair
9. The Chief Engineer and Administrator, ALHW, Port Blair
10. The Executive Director, NHIDCL, A&N Islands
11. The Assistant Commissioner of Income Tax, A&N Islands, Port Blair
12. The Asst. P.F. Commissioner/OIC, Sub-Regional Office, Labour Commissioner building, Supply Line, Port Blair.
13. All the Executive Engineers under APWD.
14. The Assistant Engineer, ISSD, APWD, Kolkata
15. The Deputy Secretary (PW), A&N Administration, Port Blair
16. The Executive Engineer, E&M (Plg), O/o CE, APWD, with the request to upload the order in APWD website.
17. The Labour Commissioner, A&N Administration, Port Blair
18. The Assistant Commissioner, EPF, A&N Administration, Port Blair
19. F. No. 63(10)/2015-16/CE/APWD/FIN/


Chief Engineer
APWD, Port Blair


11/06/23