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

+ **CO.APPL.No.320/2020 & in CO.PET. 39/2009**

DINESH MITTAL & ORS.

.... Petitioners

Through: Mr. Gopal Sankaranarayanan,
Sr. Adv. assisted by Mr.
Sumeer Sodhi Adv. and Mr.
Arjun Nanda, Adv.

versus

**M/S TRIVENI INFRASTRUCTURE
DEVELOPMENT CO. LTD.**

.... Respondent

Through: Mr. Raghav Alok, Adv. for
respondent
Ms. Ruchi Sindhwani, Sr.
Standing Counsel and Ms.
Megha Bharara for Official
Liquidator

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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22.07.2020

(Video-Conferencing)

CO.APPL.No.320/2020 & in CO.PET. 39/2009

1. This is an application, by Manasvi Security Services, for release, to it, of an amount of ₹ 76,00,000/- stated to be payable, for providing security services for the premises at M/s. Triveni Infrastructure Development Co. Ltd.,(in liquidation), during the period January, 2019 to February, 2020.



2. The Official Liquidator has filed a response to the application, in which it is averred that, against the claim of ₹ 70,18,994/- an amount of ₹ 34,34,197/- alone has been found to be payable. This difference has, apparently, been arisen because the claim of the applicant M/s Manasvi Security Services is based on the rates of wages payable to un-skilled workers as per the notification of the Govt. of National Capital Territory of Delhi (GNCTD), whereas the Official Liquidator is applying the rates of minimum wages as notified by the States of Haryana, the property in question being located within the said State.

3. Ms. Ruchi Sindhvani, learned Senior Standing Counsel appearing for the Official Liquidator, has invited my attention to an order, dated 13th September, 2018, passed by a Coordinate Single Bench of this Court, of Jayant Nath, J.

4. For ready reference, the said order is reproduced, *in extenso*, as under:

“1. On 28.08.2018, this court had noted that for the period from January 2018 to June, 2018, namely, 6 months, the security agency had raised a bill of Rs.46,56,184/- for the two lands situated at Sector 78 and Sector 89, Faridabad.

2. This court had expressed displeasure at the extent of expenditure being expended on security. Hence, a direction was passed to the Security Supervisor to remain present in person in court. The OL was also asked to file an affidavit explaining the appropriate deployment that would be required.

3. Col. Neeraj Gupta, Assistant Security Officer of the OL is present in person. He submits that taking into account the nature of the property, the security at Sector 78 can be reduced to three security guards and one gunman. Similarly,



for Sector 89 Faridabad, there will be only three security guards and one gunman. The OL will ensure necessary reduction in the security deployment immediately.

4. Learned counsel appearing for the OL has also pointed out that the security agency is relying up the wages as defined by the Ministry of Labour Employment, Govt. of India applicable to the establishments under the Central Governments/CPSUs in various state governments including Delhi. It is pointed out that these wages are much higher than the prescribed wages of the respective state governments under the Minimum Wages Act. Reliance is placed on notification dated 30.09.2016 of the Government of NCT of Delhi where the minimum wages for unskilled workers have been fixed at Rs. 9,724/- per month whereas as per the application now filed, the security agency is charging Rs.673/- per day which is equivalent to approximately Rs.20,190/- per month (Rs. 673 x 30). Clearly the security agency is following the wrong notifications and is overcharging.

5. Learned counsel for the security agency however submits that the security agency have been following the said notification of the Central Government since long and their bills have been regularly paid by the OL on the said rates. He also submits that they have already disbursed these payments to the guards deployed and hence, their action is bona fide.

6. Let the OL physically verify that the payments sought for in the present bill have been duly released to the guards deployed. On satisfaction of this, the aforesaid bill of the security agency may be released.

7. Henceforth, within 30 days from today, the OL will ensure that the billing is done based on the minimum wages as per the notification issued *by respective state governments at site* on monthly basis.

8. The application stands disposed.”
(Emphasis supplied)

5. Ms. Sindhwani relies on para 7 of the afore-extracted order, to



contend that the minimum wages, on the basis of which reimbursement is to be made by the Official Liquidator, for bills raised by the security agency, would be reckoned on the basis of notifications issued by the State government having jurisdiction over the site where the premises is situated.

6. Mr. Gopal Sankaranarayanan, learned Senior Counsel appearing for the applicant, on the other hand, has taken me through para 4 of the afore-extracted order, dated 13th September, 2018, as well as the averments of the Official Liquidator, during the course of pleadings, to emphasise that the dispute was always whether the rate of minimum wages, which would apply, would be those fixed by the Central Government, or those fixed by the GNCTD, and that it was never a point of contention that the rates fixed by the State of Haryana would be applicable.

7. He has also drawn my attention, in this context, to an order, dated 6th May, 2020, issued by the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, which treats the area of Delhi at par with Faridabad, Ghaziabad, Noida and Gurgaon, for the purposes of fixing of minimum wages.

8. As such, he submits, the security guards employed in the premises would be entitled to minimum wages on the basis of rates fixed by the GNCTD.

9. It may not be possible for me to enter into this aspect, as a



Coordinate Single Bench of this Court, of Jayant Nath, J., has, in para 7 of the afore-extracted order, dated 13th September, 2018, specifically directed that billing would be done, after the said date, *“based on the minimum wages as per the notification issued by respective state governments at site on monthly basis”*.

10. The state government at the said premises of the company under liquidation being the State of Haryana, any direction, for payment of minimum wages, on the basis of the notification, issued by the GNCTD, may fly in the teeth of para 7 of the afore-extracted order.

11. Mr. Sankaranarayanan submits that he would move an application, seeking clarification/modification of the aforesaid order, dated 13th September, 2018.

12. Mr. Sankaranarayanan further prays that, for the present, the Official Liquidator should be directed to release the amount of ₹ 34,34,197/-, which is, admittedly, payable to his client.

13. During the present period, when auctioning of assets of companies under liquidation is not possible, owing to the restrictions imposed consequent to COVID-2019 pandemic, this Court has, in order to avoid depletion of the funds of the Official Liquidator, been following a policy to release 30% of the amount payable to the security agency, where the amount is in excess of ₹ 10 lakhs and 50%, where the amount is less than or equal to ₹ 10 lakhs, reserving liberty with the security agency to move a separate application for the



payment of the balance amount, once the assets of the companies are sold and the funds of the Official Liquidator augmented thereby.

14. As such, reserving liberty with the applicant to move this Court, separately, for release of the balance amount, the Official Liquidator is, for the present, directed to release, to the applicant, from the Common Pool Fund of the Official Liquidator, one-third of the amount of ₹ 34,34,197/-, admittedly payable.

15. As Mr. Sankaranarayanan submits that an application would be moved for clarification/modification of the afore-extracted order, dated 13th September, 2018, passed in CA 959/2018, renotify this application on 18th August, 2020.

C. HARI SHANKAR, J.

JULY 22, 2020

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