

DELHI DEVELOPMENT AUTHORITY
E.M.'s OFFICE

No: EM2(3)2019/Dwk/201/DDA/

Date:

MINUTES OF THE 819th MEETING OF ASB HELD ON 28th AUGUST, 2020
IN THE CHAMBER OF CHIEF ENGINEER (HQ), DDA

819th Meeting of Arbitration Scrutiny Board (here in after called ASB) under the Chairmanship of Chief Engineer (HQ), DDA was held on **28th AUGUST, 2020 IN 4.30 PM** in his Chamber to deliberate arbitration award in the matter of M/s Dharmvir & Company Vs DDA & others. in respect of the following work:-

N.O.W. : M/o Completed/Closed scheme of MIG, LIG, SFS, Janta, EWS, Under Dwarka/SWZ.
Sub-head : Repair of Staff Quarters in Pocket A-5, Paschim Vihar .
Agency M/s. Dharamvir & Company
Agreement No. : 43/EE/WD-7/DDA/2012-13.

Agenda-note was submitted by the Chief Engineer (Dwk) on 13.11.2019 in the office of Director (Works) /Member Secy., ASB. The meeting was attended by the following officers:-

1. Sh. Sham Sunder Garg	CE (HQ)	Chairman
2. Sh. A.K. Aggarwal	CE (Dwk)	Executive Member
3. Sh. Ravi Dahiya	Add. CLA -I	Member
4. Sh. A.K. Handa		
(in place of Sh. Raj Pal Singh) Dy. CAO(Works) Consultant		Member
5. Sh.D.V.Raghav	Director (Works)	Member, Secy.

The case was presented by Sh. A. K. Aggarwal (Dwk), DDA.

Brief history of the case is as under:-

The above said work was awarded to M/s Dharamvir & Co. on 15.12.2012 with the D.O.S. and D.O.C. i.e. 25.12.2012 and 25.06.2013 respectively, but due to various hindrances occurred at site the work has been physically completed on 22.07.2014. The Extension of Time for the said work has been granted by the Competent Authority without levy of compensation upto 22.07.2014 i.e. Actual Date of Completion. The claimant has gone in the court as per Clause 25 of the agreement with the following claims:

1. Claim No. 1: Rs. 20,22,080/- on account of Final Bill.
2. Claim No. 2: Rs. 7,000/- on account of rectification of defects (the amount wrongly withheld by the respondent).
3. Claim No. 3: Rs. 10,61,592/- on account of interest @15% from the date of completion i.e. 22.07.2014 till 31.01.2017.
4. Claim No. 4: Rs. 2,00,000/- as cost of litigation and arbitration.

The DIAC(Delhi International Arbitration Centre) appointed a Sole Arbitrator Sh. Rakesh Sachdeva in April 2018. The term of the Arbitrator expired on 23.04.2019. The Claimant filed O.M.P. (Misc.) (COMM) 160/2019 under Section 29A of the Arbitration and Conciliation Act. Vide orders dated 20.12.2019 the Hon'ble High Court directed the DIAC to appoint a substitute arbitrator and the term of the substitute arbitrator was extended by nine months from the date of the said order. The Hon'ble Chairperson of DIAC appointed as the sole arbitrator Sh. Dinesh Dayal, ADJ (Retd.) on 08.01.2020.

After hearing the parties of length examining reading carefully considering the detail reasons. The award related to above claims are as under:-

Sl. No.	Description of Claim	Amount claimed by the claimant	Amount awarded by the Arbitrator	Comments of EE
1.	On account of final bill	Rs. 20,22,082/-	Nil	Being a nil award, Accepted
2.	On account of rectification of defects (amount wrongly withheld)	Rs. 7,000/-	Rs. 7,000/-	Award accepted
3.	On account of interest	@15% from the date of completion i.e. 22.07.2014 to 31.01.2017	@12% per annum from the date of payment of the final bill i.e. 02.03.2015 till realization against claim no. 2	Award accepted
4.	On account of cost of litigation and arbitration	Rs. 2,00,000/-	Nil	Being a nil award, accepted
	Total	Rs. 22,29,082/-	Rs. 7,000/-	

The arbitration case for the above said work was awarded by the Sole Arbitrator Sh. Dinesh Dayal on 15.06.2020 and same was received in this office on 22.06.2020. Further, Panel Lawyer Ms. Aakanksha Kaul has informed about the arbitration award and as per the award, a sum of Rs. 7,000/- along with interest @12% per annum from 02.03.2015 till the realization of the entire amount is payable by DDA to M/s Dharamvir & Co. (Claimant) and the remaining claims of the claimants have been dismissed.

Opinion of Ms. Aakanksha Kaul, Panel Lawyer:-

The opinion of P/L is as under:-

"As per the award, a some of Rs.7,000/- along with interest @12% per annum from 02.03.2015 till the realisation of the entire amount is payable by DDA to Dharamvir. The remaining claims of Dharamvir (including for Rs.2022082/- for escalation against the final bill) have been dismissed. **I would advise paying the said some at the earliest to avoid incurring further interest. I would also not advise challenging the said award given in the amount that has been awarded**".

Opinion of Ld. CLA , DDA dated 14.07.2020:-

"The award dated 15.06.2020 by the Sole Arbitration Sh. Dinesh Dayal is a reasoned one vide which only claim No.2 for Rs.7,000/- (which was wrongly withheld) allowed (Para 84-87 of award) and interest including claim No.3 @12% allowed (which is discretionary of arbitrator)."

Recommendation of Chief Engineer (Dwk)DDA:-

Opinion of Chief Engineer (Dwk) is as under:-

EE/WD-7 and SE/DCC-3 also agreed with opinion of Ld. CLA, DDA and Panel Lawyer placed opposite in the file. Case forwarded by the CE(Dwk) at CP-143.

In view of position explained above, case is submitted before the Arbitration Scrutiny Board for examining and to take final decision in the matter.

Recommendation of ASB:-

After due discussion and deliberation, the ASB observed following:-

The claim wise recommendation of ASB are as under:-

Claim No. 1 & 4: Since Ld. Arbitrator awarded nil amount, no question of discussion.

1. Claim No. 2: An amount of Rs 7000/ with held on account of rectification of defect(amount wrongly with held) , which may be released in favour of the claimant Since the awarded amount against this claim is reasoned one, ASB is of the opinion to accept the same.

2. **Claim No. 3: :** The rate of interest awarded by Ld. Arbitrator is reasoned one and is recommended for acceptance.

3. The payable amount duly authenticated by the Zonal Dy. CAO, be calculated as per recommendation of ASB and accordingly the recommendations of ASB may be put up to the Competent Authority as per revised delegation of powers issued vide no.EM1(10)2018/Del. Of Power/DDA/260 dated 29.01.2019 for acceptance/challenge the award.

-sd-
(D. V. Raghav),
Dir. (Works)
Member Secretary

-sd-
(A. K. Handa)
Dy. CAO
(Works/Consultant in
place of Director
(Finance/Consultant)
Member


-sd-
(Ravi Dahiya)
Addl. CLA
Member

-sd-
(N. K. Goel)
A.K. Aggarwal
CE(Dwk)
Member

-sd-
(Sham Sunder Garg)
Chief Engineer (HQ)
Chairman

Copy to:

- 1) EM/DA for kind information.
- 2) All concerned.
- 3) Director (System) for uploading on DDA website.
- 4) EE/WD-7, DDA.


Director (Works) 02/9/2020