Minutes of Meeting of Empowered Standing Committee

Meeting of Empowered Standing Committee constituted under clause -23 of contact agreement was held on dated 13/02/2017 at 04:00 PM under the Chairmanship of Secretary Water Resources Jaipur, to decide the disputes in case of "Rehabilitation of Dam & Canal work of Bada Bhanuja Kagmadarda, Sagroon, Saloda Tehsil Nathdwara District Rajsamand (Package No 62A)

The following were present in the meeting :-

1. Sh. Zakir Hussain, Joint Secretary (Exp. III), representative of Pr. Secretary, Finance Department, Jaipur
2. Sh. Lokesh Tiwari, Joint L. R. representative of Pr. Secretary, Law Department, Jaipur.

On behalf of the respondent, Executive Engineer, Water Resources Division, Rajsamand was present and on behalf of Claimant his councillor Sh. Hari Prasad Jangid was present in the meeting.

As per clause 23 of agreement the contractor M/s Ramgopal Jat Malpura Distt- Tonk had previously submitted the claims for work of "Rehabilitation of Dam & Canal work of Bada Bhanuja Kagmadarda, Sagroon, Saloda Tehsil Nathdwara District Rajsamand under JICA package was placed before empowered standing committee in its meeting dated 25.03.2014, but contractor or his representative was not present in the meeting. Therefore committee announced the decision on behalf of the facts and record.

Claimant approached the court of Addl. District Judge, Rajsamand against the decision dated 25.03.2014 of ESC under case no. 03/2014 and Hon’ble court vide decision dated 18.10.16 quashed the decision dated 25.03.2014 of empowered standing committee with directed to give proper opportunity to claimant for hearing. In compliance of decision dated 18.10.2016 of A.D.J., Rajsamand, case was again placed before ESC in its meeting dated 13.02.2017.

Committee heard arguments put by the councillor in support of their claims produced by claimant and counter arguments of respondent. Brief of arguments put by councillor and counter arguments of respondent are as under :-

Claim No 1 :- Amounting to Rs. 4,50,000/- for dispute in measurements.

Councillor of claimant pressed on the fact mentioned in claim no. 1 by the claimant and requested to consider the facts and announce the decision according to facts placed by claimant.

Executive Engineer submitted that, the claimant has not submitted any details/supporting documents in support of his claim regarding dispute in measurement, The measurement of work done by the contractor was entered in measurement book and payment was made to the contractor up to 4th running bill and accepted by the contractor. Thus there was no dispute of measurements up to 4th running bill.
The progress of work was very slow and not as per stipulated time span according to contract agreement. Due to not maintaining the prorata progress, action under clause 2 & 3 (c) of contract agreement was taken against the contractor. The contractor was requested to remain at site for Joint final measurements of the work executed by the contractor vide letter no 5165-68 dated 29-06-2012, 6120-23 dated 12-07-2012. It was also mentioned in the notices that if the contractor does not remain present at site the measurement shall be taken by the department and measurement taken by the department shall be treated as final measurement. Contractor did not remain present at site, therefore, measurement was taken by the department and entered in the MB. As per final measurement the payment Rs. 8,22,605/- was made to the contractor on 25.03.2013. Therefore, no claim submitted by the contractor is tenable because all measurements of the work executed by the contractor has been taken/entered in M. B. and payment has been made accordingly. In view of facts and record maintained at site, this claim is not tenable.

Claim No 2 :- Amounting to Rs. 14,15,860/- for recovery of 10% compensation without adjudication.

The Councillor of claimant pleaded that hindrance free work place was not provided by respondent. There was always water stands in concerned water tanks therefore he could not achieve progress of work according to contract agreement and requested to set aside the action under clause 2 and 3.

Executive engineer submitted that there was no obstacle in canal work. The contractor could execute it and could maintain prorata progress but he did not achieve the prorata progress as per contract agreement as mentioned in the reply of claim no- 1. Therefore, competent authority imposed penalty of Rs. 14,15,860/- against the contractor under clause 2 & 3. Which is proper and according to provisions of contract agreement.

Claim No 3 :- Amounting to Rs. 1184163/- for loss of profit @ 10% of balance work (Total payment of work made is 2313970/- and balance work of Rs. 11844628/-)

Executive Engineer, apprised the committee that as claimant did not execute work of Rs. 1,18,44,628/- and it was left unexecuted and breached the contract. Hence the claim of claimant is arbitrary, hypothetical and irrational which deserves to be rejected.

Committee heard arguments of both parties and presued the record produced before it. Committee found that there is no evidence in support of claim. After discussion, committee decided to reject all three claims and confirm the earlier decision taken by ESC on 13.02.2017.

(Rajesh Ramesh Teo)  
Addl. Chief Engineer  
Water Resources Zone, Udaipur

(Girish Lodha)  
Addl. Secretary cum  
Chief Engineer W.R.  
Rajasthan, Jaipur

(Lokesh Tiwari)  
Joint L.R.  
Representative Law Deptt.  
Rajasthan, Jaipur

(Zaheer Ahmad)  
Joint Secretary  
Representative Finance Deptt.  
Rajasthan, Jaipur

(Shikhar Agrawal)  
Pr. Secretary  
Water Resources, Rajasthan, Jaipur