

Himachal Pradesh
Public Works Department

No. PW/CTR/32-20/Genl. Inst/2015-8402-8501 Dated:- 6/8/2015
From

Engineer-in Chief,

To

All the Chief Engineers,
in HPPWD.,

Subject: - Up-gradation of Tharanjan to Thandi Road..

Your attention is invited towards D.O letter No. PBW(B)F(5)2/2015 dated 25/07/2015 issued by Additional Chief Secretary (PW) to the Govt., of H.P. on the subject cited as above.

You are, requested to look into the matter personally and prepare the list of those Contractors who are habitual & possess a record of filing frivolous and unwarranted claims against the department and send to this office so that such Contractors are black listed. In addition to above there are several Contractors who obtain tenders at Competitive & Unrealistic rates and then only rely on arbitration as a means of enrichment. The list of such Contractors may also be sent so that the Govt., could be apprised accordingly.

Engineer-in Chief,
HPPWD, Shimla-2.

Copy forwarded to the following for information and necessary action to:-

1. The Additional Chief Secretary (PW) to the Govt., of H.P.
2. All the Superintending Engineers, in HPPWD., through e-mail.
3. All the Executive Engineers in HPPWD through e-mail
4. The Executive Engineer (IT) for uploading the same on the departmental website.

Only
Engineer-in Chief,
HPPWD, Shimla-2.

R. S. S. C. S. (E)

D.O.NO:PBW(B)E(5)19/2015
Government of Himachal Pradesh
Public Works Department

From:

Additional Chief Secretary (PW) to the
Government of Himachal Pradesh.

To

The Engineer-in-Chief,
HPPWD., Shimla-171001.

The Chief Engineer,
HPPWD, Shimla/Mandi/Hamirpur/ Dharamshala.

Dated: Shimla-2, the 24th July, 2015.

Upgradation of Tharanjan to Tandi Road.

J.C.F&A Subject:

Sir,

GR. VI
18/7
28/7

Kindly refer to letter No. PW.LAC-Arb. (MZ)/ Sh. N.D.Naik
Cont./2015 dated 18-03-2015. It has been noticed that the Departmental Officers
are invariably agreeing to the claims filed by the Contractors and these claims
are often agreed after 8th/ 9th meeting, which is a mockery of the entire process of
arbitration.

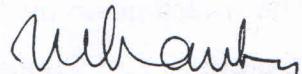
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25/7/15
The following steps be initiated:-

- 1) List of contractors who are habitual & possess a record of filing frivolous and unwarranted claims against the department be prepared, so that they are black listed. There are several contractors who obtain tenders at competitive & unrealistic rates and then only rely on arbitration as a means of enrichment. List be consolidated at level of ENC & sent to State Government for further action.
- 2) The award given by Arbitrator, Shri Sandeep Sharma, in case relating to upgradation of Tharjan to Tandi Road Km. 0/0 to 24/0 under PMGSY Package No. HP-08/112, may be circulated to all the field Officers, wherein the following findings have been enunciated.

- a) Regarding claim for removal of slips, the arbitrator held that the fact of removal of slips by the contractor was never brought to the notice of the department and is only a claim based as an afterthought, and further that it was not a job assigned to the contractor.
- b) Id. Arbitrator also held that the Contractor cannot take advantage of a general communication sent by Forest Department to the PWD for necessary compliance of FCA Act, 1980. The said orders of FCA clearances were passed in a general manner based on H.P. High Court order in COPC No. 56/2009, whereas in the instant case, the road was constructed 40 years ago and Forest Department had never objected to the maintenance of the road etc., and neither any harassment by the Forest Department was brought to the notice of the Department. The rebuttal by Department that Forest Department never objected to maintenance work of road, and there is no need to obtain NOC was accepted.
- c) The Id. Arbitrator, also awarded claim of LD under clause 44.1 of contract agreement in favour of department of Rs. 36.67 lacs by holding that while granting extension of time, Department repeatedly reminded contractor of penalty clause as well as liquidated damages. On the issue of recovery of mobilisation advance the Id. Arbitrator held that there is nothing to suggest on record that work was ever stopped by the Forest Department for want of NOC. Rs. 22.09 was allowed to be recovered.

Therefore, it should be ensured that the field officers are well versed with the departmental stance and view point, and the award can be used as a reference for counter claims on behalf of Department.

Yours faithfully,



Additional Chief Secretary (PW) to the
Government of Himachal Pradesh.