निदेशक (प्रभारी) दि.वि.प्रा.
आवती नं. 1592
दिनांक 20/3/19

DELHI DEVELOPMENT AUTHORITY
E.M.'s OFFICE

No: EM 2(3)2018/RZ/127/DDA/743 Date: 19/3/2019

MINUTES OF THE MEETING HELD ON 13.03.2019 IN THE CHAMBER OF CHIEF ENGINEER (HQ), DDA

789th Meeting of Arbitration Scrutiny Board (here in after called ASB) under the Chairmanship of Chief Engineer (HQ), DDA was held on 13/03/2019 to examine the decision pronounced by Hon'ble Additional District Judge -2, West District, Tis Hazari Courts, Delhi on 22.01.2019 in the Arbitration Petition No. 1/2018: Delhi Development Authoriy Vs M/s Brijesh Kumar & Associates in respect of the following work:-

Name of work: - D/o 122.92 Hectare of land in Sec-37 (Part) Rohini Ph-V.

S.H:- Providing & Laying peripheral Sewer line in Sector-37, Rohini, Ph-V

Agreement No: - 19/EE/RPD-6/DDA/2013-14

The Agenda-note was submitted by the CE (RZ), vide no. F.54(39)/EE/RPD-6/DDA/2012-13 dated 18.02.2019 (received on 07.03.2019). The case was presented by Sh. Sandeep Mehta, CE (RZ).

The meeting was attended by the following officers:-

1.	Sh. S. N. Singh	CE (HQ)	Member
2.	Sh. Sandeep Mehta	CE (RZ)	Executive Member
3.	Sh. Raj Pal Singh	Dir. (Finance)/Consultant	Member
4.	Sh. V.S. Kadyan	Dy. CLA –I	Member
5.	Sh. Anil Behki	Director (Works)	Member Secy.

In this case the work was awarded to M/s Brijesh Kumar & Associates with stipulated dates of start and completion as 17.09.2013 and 16.01.2014 respectively. The work could not be started due to violent agitation of residents of village Barwala. The work was fore closed on 12.05.2015 by WAB as per terms of clause 3A of agreement. The contractor invoked arbitration clause and raised 6 nos. Claims. Sole arbitrator appointed by EM/DDA pronounced his award on 09.10.2017. The Ld. Arbitrator awarded an amount of Rs. 7,14,415/- on account of loss of profit (claims no. 4) and interest on earnest money @9% up to 07.11.2015 amounting to Rs. 52,616/- (claim no. 5). Ld.

Arbitrator further awarded simple interest on total amount of Rs. 7,67,031/- @8.75% from date of award i.e. 09.10.2017 till date of payment by respondent.

ASB during its 752nd meeting under Chairmanship of CE(HQ) held on 24.11.2017, recommended to challenge the award against claim nos, 4 & 5. Respondent challenged the award in Tis Hazari Court vide Arbitration Petition No. 1/2018. Hon'ble Tis Hazari Court vide order dated 22.01.2019 dismissed the objection petition of DDA. The decision of Hon'ble Court is now put up for consideration of ASB.

Recommendation of Sh. Anupan Sharma, Panel Lawyer:-

The recommendation of Panel Lawyer is as under:-

"... The scope of interference by Civil Court in an Arbitration Award is quite limited and because of concurrent orders, no fruitful favourable may be passed, if Appeal is filed.

However, department may take a final decision in consultation with legal section and keeping in view the financial stakes. "

Recommendation of Ld. CLA, DDA:-

The Ld. CLA has endorsed the comments of Dy. CLA-1. The recommendation of Dy. CLA-1 is as under:-

"The Judgement by Hon'ble Court has carefully perused and the Judgement is very reasonable and there is no ground to challenge the judgement. The Department is requested to examine the same at their end."

Recommendation of Chief Engineer (RZ):-

The recommendation of CE(RZ) is as under:-

"....the scope of interference by Civil Court in an Arbitration Award is quite limited and because of concurrent orders, no fruitful order may be passed, if Appeal is filed.

As per recommendation of EE/SE, this office is also the view that the award may be accepted as per the opinion of P/L..."

Recommendation of ASB:-

After due discussion and deliberation the ASB is of the following view:-

In this case, the claimant itself invoked section 3-A of the agreement but DDA did not accede to such request, kept contract alive for a period of more than one year and kept on extending performance guarantee. Therefore, Hon'ble District Court Orders to sustain the award of Ld. Arbitrator, allowing loss of profit and interest on withheld amount of earnest money @9% per annum may be accepted. Further the award of simple interest @8.75% per annum on principal amount of Rs, 7,14,415/- plus interest

of Rs. 52,616/- (total Rs. 7,67,031/-) upheld by Hon'ble District Court is considered reasonable and scope of further appeal is also considered very limited.

In view of above, ASB agreed to the recommendations of Panel Lawyer, Ld. CLA and CE(RZ) to accept the Court order.

Recommendation of ASB is to be forwarded to the competent Authority for decision making in r/o accepting/challenging the Court Order, as per delegation of powers issued vide no. EM1(10)2018/Del. Of Power/DDA/260 dated 29.01.2019 by CE(HQ) DDA.

-sd-	-sd-	-sd-
(Anil Behki)	(V. S. Kadyan)	(Raj Pal Singh)
Director (Works)	Dy. CLA-I	Dir.(Finance)/Consultant
Member Secy.	Member	Member

-sd-	-sd-
(Sandeep Mehta)	(S. N. Singh)
CE (RZ)	CE (HQ)
Executive Member	Member

Copy to:-

1. EM/DDA for information please.
2. All Concerned.
3. Director (System) for uploading on DDA website please.
4. EE/RPD-6.

19/3/19

(Anil Behki)
Director (Works)
Member Secretary