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Dte of Contract Management
Military Engineer Service
Engineer-in-Chief's Branch
Kashmir House, Rajaji Marg
New Delhi – 110 011

36073/MES BAI/GEN/ 929 /E8

17 May 2019

MES Builders Association of India
807-808, Sahyog 58,
Nehru Place,
New Delhi - 110019

IN THE HIGH COURT OF J & K AT SRINAGAR : OWP NO 464/2019
AND OWP NO 427/2019 CASE TITLED M/S ALCO ENGINEERS
& OTHERS VS UOI & OTHERS AND M/S MOHD AFZAL
WANI & OTHERS VS UOI & OTHERS

Dear Sir (s)

1. Reference Order dated 05 Apr 2019 of High Court of J & K at Srinagar received in this HQ on 06 May 2019 wherein your letter No MBAI/E-in-C/280/2018 dated 20 Feb 2019 has been annexed to your petition.
2. Your above letter dated 20 Feb 2019 has not been received in this HQ. However another letter of yours bearing number MBAI/E-in-C/285/2018 dt 25 Mar 2019 has been received where contention is same but the financial limit upto which Performance Security has been requested to be excluded has been amended to Rs 2 Crore (against Rs 15 Crore in letter dated 20 Feb 2019).
3. The proposal of Performance Security was submitted to MoD in Sep 2014 and remained under deliberations for over four years till Oct 2018 when formal go-ahead was received. The instructions on Performance Security of MES are in line with that of DG MAP which is another pioneer Department under MoD. The builders are expected to be generally aware of the discussions going on at various levels on this clause. General Conditions of Contracts are common for all works irrespective of value of work. As such making new provision, applicable for works beyond Rs 2 Crore only, is not possible.
4. Military Engineer Services has made many progressive policies in recent days such as :-
 - (a) Introduction of Joint Venture.
 - (b) Deletion of requirement of Plants & Machineries in enlistment related process.
 - (c) Deletion of requirement of Engineer Establishment in enlistment related process.

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5. Implementation of Performance Security provision is also another progressive policy change towards simplification of procedures. With this provision, some of requirements in the instructions have been deleted as under :-

- (a) Property documents from enlistment related process.
- (b) Restrictions in Parallel/Adjoining Command facility.
- (c) Condition of Residual Capacity formula in Pre-Qualification process.

6. Every Department promulgates instructions for their organisation which is not necessary to be replica of some other organisation. The Performance Security provisions have been implemented after repeated deliberations at MoD and approval of the competent authority. Thus your contention to match the provisions with CPWD is not agreed to.

7. This reply is in terms of order by the Hon'ble High Court of J&K at Srinagar for consideration and disposal of your representation. This also disposes of your letter No MBAI/E-in-C/291/2019 dated 07 May 2019.

8. This is issued with the approval of Competent Authority.

Yours faithfully


(Bhagirathi Pani)
Director (Contracts)
For E-in-C

Copy to :-

All MES Formations
(Through Website)

Chief Engineer
Northern Comd
PIN-914698
C/o 56 APO

- For further necessary action and ensure proper defence in the case in the Hon'ble High Court of J & K at Srinagar.