

Copy of letter No.13476 dt. 28.6.96 from A.F.A-Cum-Under Secretary to Government of Orissa, Works Department addressed to the Engineer-in-Chief(Civil) Orissa/Chief Engineer(Roads)/Buildings/Bridges/etc.etc.

Sub: Provision of escalation clause in P.W.D. Contract form- Payment of escalation charges to the contractor during the extended period.

In supersession of this Department letter No.8122 dt. 7.4.92 on the above noted subject, I am directed to enclose an extract of the views of the Law Department alongwith an extract of item 1(ii) of the proceedings of the Codes Revision Committee Meeting held on 25.11.95 for favour of reference and guidance.

Encl:- As above.

OFFICE OF THE CHIEF ENGINEER
ROADS AND BUILDINGS: ORISSA.

Memo No. BI-Fin-24/88-37246 (79) /dt. BBSR., the 4th July '96.

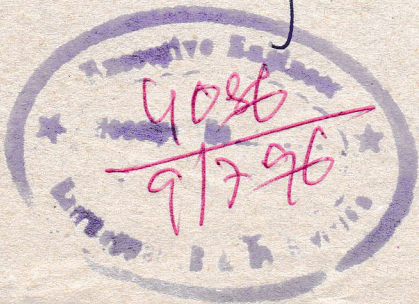
Copy with copy of its enclosure forwarded to All Superintending Engineers/Executive Engineers for information and necessary action.

Memo No. 37247 (20) /dt. 4.7.96 for CHIEF ENGINEER (BUILDINGS) ORISSA.

Copy with copy of its enclosures forwarded to the Asst. to Chief Engineer (Buildings)/Executive Engineer (Monitoring) (World Bank)/Drawing Superintendent (Buildings)/All Asst. Engineers of Buildings Branch/All Junior Engineers of Buildings Branch for information and necessary action.

for CHIEF ENGINEER (BUILDINGS) ORISSA.

M.P/3.7.
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LAW DEPARTMENT

The no claim certificate given by the Contractor alongwith the application for extension of time in the prescribed form does not invalidate clause-32 of F2 agreement containing the stipulations for price escalation. The views of the Codes Revision Committee seems correct and the contractor is not precluded to claim escalation even after furnishing a no claim certificate.

Sd/- H. Mohapatra,
L.R.-cum- Addl. Secretary,
Law Department.

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Extract of the proceeding of the meeting of the Codes Revision Committee held on 25.11.95 at 11.30 A.M. in the Office Chamber of Engineer-in-Chief-cum-Secretary to Government, Works Department.

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Item-1: Payment of escalation charges to Contractors.

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(ii) While granting extension of time to the Contractors "no claim certificate" is obtained from them in the prescribed form of the Department. The significance of such certificate is that the contractor surrenders his claim for "Compensation on any account". But it is seen in many cases that contractors are putting up their claims for escalation in spite of no claim certificate given by them earlier. It is to be decided if such certificate of the contractors are consistent with the no claim certificate. At this point, Secretary, Works Department observed that compensation and escalation are not one and the same. The object of payment of compensation is to make good the loss suffered by the contractor on account of negligence, default or fraud ~~xxxx~~ committed by the other party and does not cover escalation. Hence "no claim certificate" will not be a bar to the claim of escalation. The members endorsed the above views of the Engineer-in-Chief-cum-Secretary.

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