

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

Con.Case(C) .No. 1150 of 2014 (S) IN WP(C) .9427/2014

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AGAINST THE ORDER/JUDGMENT IN WP(C) 9427/2014 of HIGH COURT OF KERALA
DATED 07-04-2014**

PETITIONER(S)/PETITIONER:

ANIAN KOSHY, AGED 46 YERS,
S/O LATE G. KUJUKOSHY, DIRECTOR
INSTITUTE OF THE SCIENTIFIC AND RESEARCH
AND TRAINING T.C 8/1613
THIRUMALA P.O, THIRUVANANTHAPURAM 695006

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENT(S)/RESPONDENT NOS 1 AND 3:

1. A.SHAJAHAN I.A.S.
PETITIONER SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695001

2. E.P MOHANDAS,
S/O P. VASUDEVAN NAIR, STATE PROJECT OFFICER
SARVA SIKSHA ABHIYAN
OFFICE OF THE SARVA SIKSHA ABHIYAN
THIRUVANANTHAPURAM 695001

R1,2 SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES :

- ANNEXURE A1 : TRUE COPY OF THE SAID ORDER DATED 07.04.2014
IN WP(C) NO. 9427 OF 2014
- ANNEXURE A1 (a) : TRUE COPY OF THE ORDER DATED 21/10/2014
- ANNEXURE A2 : TRUE COPY RECEIPT ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA
- ANNEXURE A2 (a) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A2 (b) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A2 (c) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A2 (d) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A2 (e) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A2 (f) : TRUE COPY OF RECEIPTS ISSUED BY BLOCK RESOURCE
CENTRE AND COUNTER SIGNED BY DISTRICT PROJECT
OFFICER, PATHANAMTHITTA.
- ANNEXURE A3 : TRUE COPY OF THE INFORMATION UNDER THE RTI
ACT DATED 25.09.2014
- ANNEXURE A3 (a) : TRUE COPY OF THE VOUCHER RECEIPT DATED
29.04.2014
- ANNEXURE A3 (b) : TRUE COPY OF THE INFORMATION UNDER THE RTI
ACT RECEIVED FROM SSA, KOLLAM DISTRICT DATED
04.09.2014
- ANNEXURE A4 : COPY OF THE COUNTER AFFIDAVIT.
- ANNEXURE A5 : TRUE COPY OF THE REPLY AFFIDAVIT FILED BY
THE PETITIONER (WITHOUT EXHIBITS)
- ANNEXURE A6 : TRUE COPY OF THE RECEIPT
- ANNEXURE A7 : TRUE COPY OF THE ACCOUNT STATEMENT

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON J.

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Cont. Case (C) No. 1150 of 2014

against

W.P.(C) No. 9427 of 2014

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Dated, this the 9th day of September, 2015

JUDGMENT

Non-compliance of the direction contained in the interim order dated 07.04.2014 passed by this Court in W.P.(C) No.9427 of 2014 made the petitioner to approach this Court by filing this contempt of court proceedings.

2. Heard both the sides.

3. The interim relief prayed for in the writ petition is in the following terms :

"For the reasons stated in the affidavit accompanying this writ petition it is humbly prayed that this Honourable Court may please to issue an order, staying the awarding of contract in terms of Exhibits P7 and P8, pending disposal of this writ petition."

4. The order passed by this Court on 07.04.2014 as per Annexure A1 is extracted below :

"Admit. Urgent notice.

2. With regard to the interim relief sought for, the learned counsel for the petitioner submits that all

the tender conditions stipulated earlier have been simply give a go-bye, so as to award the work to the fourth respondent and that it has turned to be a 'single tender'

3. This Court is of the prima facie view that 'single tender' is not liable to be accepted in view of the larger public interest involved and the chance for drainage of public money, in view of the law declared by this judgment of a Division Bench of this Court in W.A. No. 3331 of 2011.

The respondents are directed to file counter affidavit. 'Status quo' shall be maintained for a period of two months."

5. In response to the allegation of contempt, an affidavit dated 07.11.2014 has been filed by the second respondent asserting that the interim order of 'status quo' has not been violated by the respondent in any manner. It is asserted that all supplies were effected prior to the date of interim order i.e. 07.04.2014, pointing out that no supply was effected after the said date. The relevant documents pertaining to Pathanamthitta, Malappuram and Kannur districts were sought to be produced from the part of the respondents. The learned Government Pleader places reliance on Exts. R2(a) to R2(j). In respect of Calicut and

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: 3 :

Palakkad district, the learned Government Pleader submits that tender proceedings have been subsequently dropped and no supply was effected after the date of interim order.

6. The learned counsel for the petitioner submits, with reference to 'paragraph 10' of the statement filed by the respondent, that payment has been effected after the interim order and hence there is violation of the order. However, this Court finds that 'status quo' ordered was with reference to the nature of interim relief sought for and not with reference to the the payment in respect of the supply already effected, in view of pendency of writ petition. While holding that there is no contumacious act on the part of the concerned respondent, this Court makes it clear that the petitioner is at liberty to pursue the matter before the learned Judge where the writ petition is pending, in relation to further payments, if any, and as to the relief sought for in the writ petition.

The contempt matter stands closed accordingly.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd