

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WA.No. 1917 of 2015 () IN WP(C).9592/2015

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AGAINST THE ORDER/JUDGMENT IN WP(C) 9592/2015 of HIGH COURT OF KERALA
DATED 18-06-2015**

APPELLANT(S)/PETITIONER:

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M/S.JOHNSON LIFTS PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT NO.1, EAST MAIN ROAD,
ANNA NAGAR, WESTERN EXTENSION, CHENNAI - 600 101.
HAVING A BRANCH OFFICE AT SEAPORT - AIRPORT ROAD,
COCHIN - 682 309
REPRESENTED BY POWER OF ATTORNEY HOLDER JOS.P.GEO (ZONAL
MANAGER KERALA), S/O.K.GEORGE, POWATHIL HOUSE,
ERLOOR WEST P.O., THIRIPUNITHURA, PIN - 682 306.**

**BY ADVS.SMT.P.K.PRIYA
SMT.MONCY FRANCIS**

RESPONDENT(S)/RESPONDENTS:

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- 1. THE K.T.D.C. HOTELS & RESORTS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, MASCOT SQUARE,
THIRUVANANTHAPURAM 695 033.**
 - 2. THE K.I.T.C.O. LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, P.B.NO.4407,
FEMITH'S, PUTHIYA ROAD, N.H. BYE PASS,
VENNALA, COCHIN - 682 028.**
 - 3. GOVERNMENT OF KERALA,
REPRESENTED BY THE SECRETARY, TOURISM DEPARTMENT**

**R1 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC, KTDC
R2 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.NITHIN GEORGE
R3 BY ADV. SRI.A.K.JOHN, (SR) GOVERNMENT PLEADER (B/O)**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

WA.No. 1917 of 2015 ()

APPENDIX

PETITIOENR'S EXHIBITS:

ANNEXURE I: COPY OF THE JUDGMENT IN WP(C) 9592/2015 DATED 18.6.2015.

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

**THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.**

W.A.No.1917 of 2015

Dated this the 21st day of December, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1.This writ appeal is by a contractor which carried out certain works for the Kerala Tourism Development Corporation. The work is supervised by KITCO, which is another Government Company. When controversies arise relating to such matters involving public sector companies and bodies in a State, we thought that it is appropriate that the Government considers making a provision to have a resolution module either in the form of a committee or otherwise to enable a joint decision making body. Therefore, on 28.9.2015, this Court issued the following order:

“1. When this writ appeal came up for consideration, we thought it appropriate to look into the basic issues within a larger frame. We therefore required the Special Government Pleader for the Department of Finance also to be present.

2. K.I.T.C.O is an agency which works as a

consultant. Many public sector institutions including K.T.D.C., C.E.P.Z etc. utilise the services of K.I.T.C.O as a consultant for different projects. The works are awarded to different persons or institutions whom we may call as contractors. We have come across other cases as well, apart from the one in hand. While in many cases, there is no dispute between K.I.T.C.O and the institution which utilises the services of K.I.T.C.O regarding amounts that are payable to such contractors, there appears to be some managerial problem where the resultant situation is that the PSUs like K.T.D.C. would stand to say that K.I.T.C.O has to make the payment, while the stand to the vice-versa is taken by K.I.T.C.O.

3. In the larger public interest including the requirement to move ahead with such projects, it is deemed appropriate that the Government considers creating some resolution module either in the form of a Committee or Secretary to Government in Finance or in other Departments or may be as the joint decision making body of different departments to handle such situation amicably so that projects will go ahead and the ultimate expenditure can be controlled while paying off the contractors in time. This, we think is also necessary for proper confidence building of the contractors so that

quicker action in relation to such projects can be easily obtained.

4. While we have expressed our opinion as above, it is open to the Government to do the needful as it may find appropriate. Learned Special Government Pleader for the Department of Finance will place a copy of this order before the Additional Chief Secretary of Finance for perusal and consideration.

Post after two weeks."

2. On 15.10.2015, the learned Special Government Pleader (Tourism), Sri.A.K.John submitted that the Government is looking into the matter covered by the order dated 28.9.2015 and that inter departmental consultation is being held.

3. Today, the learned Special Government Pleader (Tourism) has placed before us a copy of G.O.(P).No.509/15/Fin dated 07.11.2015 issued by the Finance (Industries & Public Works- B) Department constituting a committee to resolve the disputes relating to works through Government accredited agencies. The structure of the committee and the modality for resolution of disputes are stated therein. Copy of the said

Government Order will stand appended to this judgment.

4. In the light of the constitution of the aforesaid committee, we are of the view that the claims raised by the appellant can be effectively brought to the resolution taken in accordance with the appended Government Order. This writ appeal is accordingly ordered, directing that if the appellant moves the committee constituted as per G.O.(P) No.509/15/Fin dated 07.11.2015, that matter can be decided by the said committee untrammelled by anything stated in the judgment of the learned single Judge which is challenged in this writ appeal.

Writ appeal is ordered accordingly.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(ANU SIVARAMAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG