

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 73 of 2014 (H)

PETITIONER:

**A.G.ANTONY, AGED 50,
S/O.GEORGE, ALASHERIL HOUSE,
ARTHUNGAL P.O, CHERTHALA, ALAPPUZHA.**

BY ADV. SRI.K.R.VINOD

RESPONDENT(S):

- 1. THE EXECUTIVE ENGINEER,
OFFICE OF THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION, ALAPPUZHA - 688 530.**
- 2. STATE OF KERALA,
REP. BY THE JOINT SECRETARY,
PUBLIC WORKS DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.**

BY ADV. GOVERNMENT PLEADER SRI.GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 73 of 2014 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1 : THE COPY OF THE LETTER DATED 07-09-2013 ISSUED BY THE
1ST RESPONDENT.**

**EXHIBIT P2 : THE COPY OF THE CIRCULAR ISSUED BY THE 2ND RESPONDENT TO
THE EFFECT DATED 15-10-2013.**

**EXHIBIT P3 : THE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED 02-12-2013.**

**EXHIBIT P4 : THE COPY OF THE LETTER DATED 03-12-2013 OF THE
1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 73 of 2014

Dated this the 30th day of October, 2015

JUDGMENT

The petitioner was awarded with the work vide Ext.P1. The petitioner did not execute the agreement. Thereafter, the award has been cancelled and the amount of EMD has been forfeited as per tender conditions. The petitioner challenges the forfeiture of the EMD by referring to Ext.P2. According to the petitioner, the Government has prescribed pre-qualification for BM & BC work and therefore, the petitioner ought not have been selected for the work. The petitioner submitted that he is not eligible for the work as per Ext.P2 and therefore, the forfeiture of the EMD is illegal.

2. The learned Government Pleader points out that Ext.P2 has no application in this matter and the petitioner consciously abstained from executing the work disregarding the terms and conditions of the work.

3. This Court is of the view that the petitioner having taken part in the tender process is bound by the terms and conditions of the tender process. The petitioner cannot rely upon Ext.P2 Circular which do not form part of the tender documents. Further, if the petitioner has any other grievances in this matter, the petitioner is free to move before the Civil Court, for an appropriate relief. In this matter, regarding forfeiture of security deposit, the respondents had acted based on the terms and conditions of the tender and there is no arbitrariness on the part of the respondents.

In that view of the matter, with a liberty to lay a challenge before the Civil Court, the writ petition is dismissed.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE