

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 5031 of 2009 (Y)

PETITIONER(S) :

ALL KERALA ENGINEERS AND SKILLED
WORKERS LABOUR CONTACT CO-OPERATIVE SOCIETY
LTD. NO. 447, THEVALLY,
KOLLAM - 691 009,
REPRESENTED BY ITS PRESIDENT D. RAJKUMAR.

BY ADVS.SRI.A.SUDHI VASUDEVAN
SMT.K.PUSHPAVATHI

RESPONDENT(S) :

1. THE SECRETARY TO GOVERNMENT
FINANCE (RESOURCES) ,
FINANCE (NODAL CENTRE) DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.
2. THE SUPERINTENDING ENGINEER,
IRRIGATION SOUTH CIRCLE, NEAR PMG JUNCTION,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P1 A TRUE COPY OF CERTIFICATE OF DATED 09/02/2009 ISSUED BY THE ASSISTANT REGISTRAR OF THE CO-OPERATIVE SOCIETIES TO THE PETITIONER.
- EXT.P2 A TRUE COPY OF THE TENDER NOTICE DATED 22/01/2009 ISSUED BY THE 2ND RESPONDENT.
- EXT.P3 A TRUE COPY OF THE G.O. DATED 01/12/08 ISSUED BY 1ST RESPONDENT.
- EXT.P4 A TRUE COPY OF THE APPLICATION DATED 30/01/2009 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P5 A TRUE COPY OF THE ORDER DATED 11/02/209 PASSED BY THE 2ND RESPONDENT.
- EXT.P6 A TRUE COPY OF ACKNOWLEDGEMENT DATED 14/10/2008 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P7 A TRUE COPY OF ACKNOWLEDGEMENT DATED 23/11/2008 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.5031 of 2009

Dated this the 15th day of October, 2015

JUDGMENT

Aggrieved by the rejection order passed by the second respondent, the petitioner has come up before this Court.

2. According to the petitioner, the second respondent invited tenders to carry out the work referred to in the notification. Pursuant to the said notification, the petitioner applied before the second respondent for tender form. The petitioner purchased the tender form remitting a sum of ₹4500/- on 14.10.2008 and duly submitted the tender for the award of the work of construction of sea-wall from ch.27.720 to 27870 km. and from 28.200 to 28.600 km. and reformation of sea-wall from ch.27.000 km. to 27.720 km. and 27.870 to 28.200 km. and 28.600 to 29.400 at Neendakara in Kollam District. The second respondent, however, cancelled the tender and ordered re-tender on the ground that the petitioner was the sole participant in the tender. The

tender submitted by the petitioner was not opened; it is alleged.

3. According to the petitioner, a fresh notification was issued by the respondents inviting tenders for the said work. Pursuant to the said notification, the petitioner again applied before the second respondent for tender form. The petitioner purchased the tender form remitting again a sum of ₹4500/- on 23.11.2008 and duly submitted the tender. During December 2008, the second respondent again cancelled the tender and ordered re-tender on the untenable ground that the petitioner and two others alone were participants in the tender and the tender submitted by the petitioner was not opened. A notification dated 22.1.2009 was once again issued inviting tenders for the said work. There was undue delay in issuing Ext.P2. The last date of issue of tender form fixed under Ext.P2 is 18.8.2009. In the meanwhile the first respondent issued Ext.P3 G.O.(P) No.540/08/fin. dated 1.12.2008 enhancing exorbitantly the rate of cost of tender forms. The cost of the tender form prior to Ext.P3

was ₹4500/-. The petitioner submitted an application dated 30.1.2009 before the second respondent for getting the tender form pursuant to Ext.P2, without levying the cost of the tender form in view of the fact that the petitioner was made to remit a sum of ₹9000/- for the purchase of tender form twice for no fault of the petitioner, which was rejected by the second respondent.

This Court as per interim order dated 16.2.2009 directed the respondents to issue tender forms on the petitioners paying the cost at the revised rates. However, it was made clear that such payment would be subject to the result of the writ petition.

The issue arose in the year 2009 and as it appears that the entire proceedings might have been completed by this time, this Court is of the view that there is no need to proceed with the writ petition. Therefore, this writ petition is closed in the light of the interim order already passed.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE