

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 2612 of 2015 (B)

PETITIONER :

**M/S.MERCURY LABORATORIES LIMITED,
HAVING ITS REGISTERED OFFICE REGISTERED OFFICE
AT 18 SHREEJI BHUVAN, 51 MANGALADAS ROAD
MUMBAI - 400 002 REPRESENTED BY ITS LIAISON AGENT
MADHOOR.S.**

**BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENTS :

- 1. KERALA STATE MEDICAL SERVICES CORPORATION LTD.,
THAICADU P.O., THIRUVANANTHAPURAM - 695 014.**
- 2. SECRETARY TO GOVERNMENT
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001.**
- 3. DRUG CONTROLLER OF KERALA,
RED CROSS ROAD, THIRUVANANTHAPURAM - 695**

**R BY SRI.M.AJAY,SC,KERALA MEDICAL SERV.CORPN
R2 BY GOVERNMENT PLEADER SRI. K.C. VINCENT**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF TENDER FLOATED BY THE RESPONDENT CORPORATION.
- EXT.P2: TRUE COPY OF PURCHASE ORDER DATED 31/05/2013.
- EXT.P3: TRUE COPY OF THE INVOICE ISSUED BY RESPONDENT CORPORATION.
- EXT.P4: TRUE COPY OF THE LABORATORY REPORT.
- EXT.P5: TRUE COPY OF THE COMMUNICATION DATED 01/01/2015 FROM RESPONDENT CORPORATION WITH LABORATORY PROTOCOL.
- EXT.P6: TRUE COPY OF THE LETTER DATED 24/10/2014.
- EXT.P7: TRUE COPY OF THE COMMUNICATION FROM DRUGS TESTING LABORATORY DATED 21/11/2014.
- EXT.P8: TRUE COPY OF THE CERTIFICATE OF TEST ANALYSIS BY GOVERNMENT ANALYST DATED 14/08/2014.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.2612 of 2015

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Dated this the 27th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:-

“i) Issue a writ of certiorari or any other appropriate writ order or direction to quash Ext.P5 communication of recovery from the security deposit.

ii) Issue a writ of mandamus or other appropriate writ order or direction directing the first respondent to permit the petitioner to participate in the tender proceedings for the year 2015-16..

iii) Issue a writ of mandamus or other appropriate writ order or direction directing the first respondent not to recover any amount from the petitioner on the basis of Exhibit P5 communication.”

2. The petitioner is a company incorporated under the Companies Act and is engaged in manufacturing and sales of medical drugs, having license under the Drugs and Cosmetics Act. The petitioner submits that the 1st respondent Corporation issued tender for supply of certain drugs across the state in the

year 2013-14 . The petitioner company also participated in the tender and was successful in bidding and had supplied drugs to the 1st respondent. On 01.01.2015, the 1st respondent issued Ext.P5 letter to the petitioner, intimating that the products supplied by the petitioner were not of standard quality. The petitioner approached the Central Drugs Testing Laboratory at Kolkata through another person under Right to information Act. The Central Drugs testing Laboratory gave a reply stating the decomposition of tablets may be due to improper packing or improper storage or transportation. Hence the petitioner is before this Court with a prayer to quash Ext.P5.

3. After hearing both the sides and perusing the records, this Court is of the view that the matter requires to be reconsidered after affording an opportunity of hearing. Ext.P5 order stands set aside. The first respondent is directed to reconsider the matter and pass appropriate orders in accordance with law, after hearing, at the earliest, at any rate, within a period of two months from the date of receipt of a copy of the

judgment. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for further steps.

The writ petition is disposed of.

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

sj