

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 3922 of 2015 (M)

PETITIONER(S):

**C.L.ANTO,
CHIEF PROMOTER, AND CHAIRMAN DESIGNATE,
NATIONAL ENERGY AND WASTE MANAGEMENT
MULTIPURPOSECO-OPERATIVE
SOCIETY (KERALA) LTD. REGD.NO.4484
(NEWSCO), DREAM LAND BUILDING K.S.R.T.C. ROAD,
CHALAKUDY P.O., THRISSUR DISTRICT, PIN - 680 307.**

BY ADV. SRI.C.L.ANTO (PARTY-IN-PERSON)

RESPONDENTS:-:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. EXECUTIVE DIRECTOR,
SUCHITWA MISSION, PANAVIDA JUNCTION,
LOCAL SELF GOVERNMENT DEPARTMENT,
P.O.THIRUVANANTHAPURAM - 695 014.**
- 3. THE SECRETARY,
THIRUVANANTHAPURAM CORPORATION, THIRUVANANTHAPURAM
PIN - 690 003.**
- 4. SECRETARY,
MINISTRY OF NON CONVENTIONAL ENERGY,
NEW DELHI - 110 001.**

**R1 & 2 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
R3 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R3 BY ADV. SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION
R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 6/7/2015
THE COURT ON 06-10-2015, DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** G.O.DTD.13-1-2012 SHOWING THE LIST OF SERVICE PROVIDERS FOR BIG WASTE MANAGEMENT PLANS (RELEVANT PAGES).
- EXT.P2:** TRUE COPY OF THE NOTIFICATION NO.1418 DTD. 23-05-2012 SHOWING LIST OF SERVICE PROVIDERS, AND MANDATORY CLAUSES (RELEVANT PAGES).
- EXT.P3:** TRUE COPY OF TENDER NOTIFICATION OF THE RESPONDENT NO.3, WITHOUT SUFFICIENT TIME FOR PREPARING TIME.
- EXT.P4:** TRUE COPY OF REPRESENTATION SENT TO THE RESPONDENT NO.3 TO EXTEND TIME TO ENABLE THE PETITIONER TO TAKE PART IN THE TENDER.
- EXT.P5:** TRUE COPY OF THE RECEIPTED LETTERS GIVEN IN PERSON TO RESPONDENT NO.3 SEEKING TENDER DOCUMENT AND SEEKING EXTENSION OF TIME, AT THIRUVANANTHAPURAM.
- EXT.P6:** PROOFS OF THE RESPONDENT NO.3 ET.AL. ABETTED BY RESP.NO.1 AND 2, VIOLATING EXT.P1, P2 ETC. TO HELP PRIVATE AGENCIES.
- EXT.P6(AI)** APPEAL SENT TO EXT.P6 OF RESP.NO.3 FOR EVASIVE REPLIES.
- EXT.P6(AII)** APPEAL SENT TO EXT.P6 OF RESP.NO.3 FOR EVASIVE REPLIES.
- EXT.P6-B:** PROOF OF KOLLAM MUNICIPAL CORPORATION AWARDDING CONTRACT TO IRTC, VIOLATING EXT.P1, EXT.P2 ETC.
- EXT.P7:** TRUE COPY OF LETTER OF APPRECIATION, AFTER VISITING THE PLACE OF THE SOCIETY BY DISTRICT COLLECTOR, WHO IS THE DISTRICT NODAL OFFICER FOR WASTE MANAGEMENT.
- EXT.P8:** TRUE COPY OF CERTIFICATE SHOWING SATISFACTION FOR THE WASTE MANAGEMENT PROJECTS DONE BY THE PETITIONER, BY DISTRICT COLLECTOR, WHO IS THE DISTRICT NODAL OFFICER FOR WASTE MANAGEMENT.
- EXT.P9:** ORDER OF THE DIVISION BENCH DIRECTING THE RESPONDENT NO.1 AND 2 CONSIDER THE PETITIONER DURING WASTE MANAGEMENT PROGRAMS.
- EXT.P10:** TRUE COPY OF THE COPY OF THE EXECUTIVE COMMITTEE RESOLUTION AUTHORIZING THE PETITIONER TO REPRESENT THE SOCIETY IN THE COURT CASES.

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**EXT.P11: TRUE COPY OF THE COPY OF THE CERTIFICATE OBTAINED FROM
INDUSTRIES DEPARTMENT SHOWING THE MANUFACTURING
FACILITIES.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J

WPC No.3922 of 2015

Dated this the 6th day of October, 2015

JUDGMENT

The petitioner has approached this Court seeking a direction against the third respondent to stay further proceedings pursuant to Ext.P3 and consider Exts.P4 and P5 to enable the petitioner to take part in the tender process.

2. According to the petitioner, he is the Chief Promoter and Chairman Designate of National Energy and Waste Management Multipurpose Co-operative Society (Kerala) Ltd. Reg.No.4484, which, according to the petitioner, is a Co-operative society for Energy and Waste Management. He alleges that the said society functions with the technical support of Mailhem Engineers Pvt.Ltd. According to the petitioner, he is an authority in Waste and Energy management. He claims that only after he had submitted a detailed report of new economic principle PSFAR (Priority Seeding and Regeneration of Finance) to

the State Government during June 2011. Respondents 1 and 2 started new approach in waste and energy management. The petitioner claims that he is enlisted as the service provider for the management of bigger plants vide Ext.P1 and for smaller plants vide Ext.P2. The petitioner alleges that the service providers for waste management are to be selected from this list. He alleges that the District Collector, Thrissur, who is the nodal officer for waste management, after the inspection of the petitioner's place, issued a certificate of appreciation which is marked as Ext.P4. He also alleges that the Division Bench of this Court has directed the respondents 1 and 2 to consider the petitioner during waste management programme after watching the video presentation in the open Court.

3. The grievance of the petitioner is that the third respondent has proposed to call for the tender for establishing bio-gas plants in different places in a hurry violating the provisions of Exts.P1 and P2. According to him, there is an organised conspiracy of respondents 1

and 2 and its political leadership to marginalise the petitioner's society. It is also alleged that respondents are ignoring various representations filed by the petitioner to give parity.

4. The respondent Corporation has filed a statement stating that the allegations raised in the writ petition are untenable.

5. I have heard the petitioner who appeared in person and the learned senior counsel for the third respondent Corporation and the learned Government Pleader in the matter.

6. The petitioner submitted that respondents 1 to 3 are bound to follow and comply with Exts.P1 and P2 directions in the store purchase manual. He alleges that respondents 1 and 2 have miserably failed to tackle the waste management of the State and to co-ordinate properly with the third respondent and similarly placed Local Self Government Institutions even to enforce them to adhere to its own Government Orders. He further submitted that non-intimation of tender details to the

petitioner and his society in time and non-consideration of Exts.P4 and P5 for extension of time violates Article 14 of the Constitution of India. According to him, respondents 1 to 3 are supposed to give tenders to the most eligible party who adheres to the parameters prescribed in the various Government orders and scientific parameters with respect to the digester manufacturing. According to the petitioner, he has come out as the most eligible party supported by its organisation and technological support which the technical evaluation committee have seen before issuing Exts.P1 and P2.

7. From the statement filed by the third respondent, it can be seen that the respondent Corporation has issued a re-tender notification dated 23.12.2004 inviting tenders in the establishment and supervision for six months of Bio-gas plants in the various wards in Thiruvananthapuram Corporation and also for the establishment of Organic Waste converted composing plants and its supervision for three years. The notification was issued in the various vernacular dailies as well as one national daily dated

25.12.2014. The said notification was also published in the website of the Thiruvananthapuram Corporation and also in the e-tender website of the State Government, viz. www.etenders.kerala.gov.in. It is also stated that the copy of the tender notice was also sent by registered post to M/s NEWSO, Dreamland Building, Near KSRTC Stand, Chalakudy-680307. Copy of the tender notice has been sent to the correct address of the petitioner, according to the respondent.

8. The respondent contends that Ext.P4 letter sent by the petitioner has been received in the office of the Corporation on 8.1.2015. The tenders were invited strictly in accordance with the procedure laid down in the PWD Tender Manual. By Ext.P4 dated 1.1.2015, the petitioner requested extension of time for procurement of tender forms. However, it is crucial to note that the postponement of tender proceedings at the request of one individual or establishment would cause hardship, loss and inconvenience to the Corporation. It would also adversely affect the transparency of the tender process

also.

9. It is the definite case of the third respondent that notices were issued to all agencies approved by the Kerala Suchithwa Mission in accordance with the order dated 25.3.2012. However, Ext.P5 letter was received by the Corporation only on 8.1.2015.

What is stated in Ext.P4 by the petitioner is that the time given is not sufficient to submit the tender forms. The petitioner claims to have expertise in the field of modern waste management. As the petitioner has not responded to the notification in time, it cannot be said that the petitioner was discriminated. Therefore, this Court finds no reason to interfere with the tender process. Accordingly, this writ petition is dismissed.

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

css/

true copy

P.S.TO JUDGE