

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4224 of 2015 (C)

PETITIONER :

**SABUMON LUKOSE,S/O K.C. LUKOSE,
KARUKAMALYIL PERUMBAIKADU P.O.,
KOTTAYAM.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH**

RESPONDENT(S):

- 1. THE SUPERINTENDING ENGINEER,
PUBLIC WORKS DEPARTMENT, (BUILDING DIVISION),
SOUTH CIRCLE, TRIVANDRUM -695 001**
- 2. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, (BUILDING DIVISION),
COLLECTORATE P.O., KOTTAYAM -686 002**
- 3. STATE OF KERALA, REPRESENTED BY THE SECRETARY,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
TRIVANDRUM -695 001**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI.M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF RELEVANT PAGES OF E-TENDER INVITATION NOTICE FOR THE WORK-CONSTRUCTION OF NEW BUILDING FOR DISTRICT VETERINARY CENTRE, KODIMATHA DATED 4/3/2014**
- EXT.P2: TRUE COPY OF SELECTION NOTICE DATED 23.1.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**
- EXT.P3: TRUE COPY OF THE INTIMATION ISSUED FROM THE OFFICE OF THE EXECUTIVE ENGINEER, DT. 6.2.2015**
- EXT.P4: TRUE COPY OF CERTIFICARTE DT. 7.2.2015 ISSUED BY THE CATHOLIC SYRIAN BANK LTD**
- EXT.P5: TRUE COPY OF REPRESENTATION DT. 3.2.2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT**
- EXT.P6: TRUE COPY OF ORDER DT. 17.11.2014 SUED BY THE SPERINTENDENT ENGINEER, ROAD & BRIDGES DIVISION**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4224 of 2015

Dated this the 13th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i) Issue a Writ of Mandamus or such other writ or order or direction commanding the respondents to permit the petitioner to enter into the agreement for execution of the work awarded by Ext.P2 Selection Notice, treating any part of amount of Rs.1,27,96,274/- covered by Ext.P3, as security deposit in compliance with Ext.P2 Selection Notice;

ii) Issue a Writ of Mandamus or such other writ or order or direction directing respondents to adjust the security amount demanded, by way of Ext.P2, by equal amount which are due to the petitioner vide Ext.P4;

iii) Issue a Writ of Mandamus or such other writ or order or direction commanding the respondents to disburse amounts from the pending bills, which is equal to the security deposit required by Ext.P2;

iv) Issue a Writ of Mandamus or such other writ or order or direction directing respondents to dispose of Ext.P6;

And

v) To grant such other reliefs as this Hon'ble Court may deem just and fit in the circumstances of the case."

2. The learned counsel for the petitioner submits that, a total sum of nearly Rs.1.27 Crores is pending disbursement to

the petitioner as evident from Ext.P3 proceedings dated 06.02.2015 issued by the Divisional Accounts Officer. The learned counsel also submits that, the total liability to be satisfied by the petitioner by way of 'security deposit' is only to the tune of Rs.42,56,100/- (Rupees Forty two lakhs fifty six thousand and one hundred only) as evident from Ext.P2. It is stated that, the petitioner has no objection at all in appropriating the said extent by keeping disbursement of the bills shown at Serial Nos.6 and 8 of Ext.P3, in abeyance, which will suffice the requirement.

3. The learned Government Pleader submits on instructions that, all the bills shown in Ext.P3 are pending clearance to be disbursed to the petitioner and that the disbursement will be effected strictly in accordance with the seniority.

4. After hearing both the sides, this Court finds that in so far as the payment due to the petitioner is admitted as evident from Ext.P3, the respondents are set at liberty to detain the bills at Serial Nos.6 and 8 of Ext.P3 as against the amount covered by Ext.P2 (the security deposit to be satisfied in connection with

Ext.P1 tender). A further period of 'two weeks' is granted to complete the steps in connection with the new tender.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the respondents, for further steps.

The writ petition is disposed of.

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

sp