

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 5073 of 2015 (H)

PETITIONER:

**THE KANNUR DISTRICT BUILDING MATERIALS,
FURNITURE,
MARKETING AND MANUFACTURING CO-OPERATIVE SOCIETY,
NO C 1630, CHAKKARAKAL, MOWENCHERY,
KANNUR, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.V.PREMCHAND

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF PORTS,
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF PORTS,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.**
- 3. THE SENIOR PORT CONSERVATOR,
PORT & SHIPPING OFFICE,
AZHEKKAL, KANNUR.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.JOSPEH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE TENDER NOTIFICATION DATED 19.12.2014 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P2: A TRUE COPY OF STIPULATIONS INCORPORATED AFTER THE BYE LAW AMENDMENT OF THE PETITIONER SOCIETY.

EXHIBIT P3: TRUE COPY OF THE ORDER DATED 7.4.2012 ISSUED BY THE JOINT REGISTRAR (GENERAL) KANNUR.

EXHIBIT P4: TRUE COPY OF THE PETITION DATED 23.1.2015 FILED BY THE PETITIONER BEFORE THE DEPUTY DIRECTOR OF PORTS.

EXHIBIT P5: TRUE COPY OF THE CERTIFICATE 15.01.2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.S. TO JUDGE

vmr.

P.R. RAMACHANDRA MENON, J.

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W.P.(C)No. 5073 OF 2015
.....

Dated this the 11th March, 2015

J U D G M E N T

The petitioner is a society which is stated as engaged also in the field of manual dredging Operations. In response to Ext.P1 tender notification issued by the third respondent/Senior Port Conservator, the petitioner also put in their application along with relevant testimonials. But unfortunately, a copy of the amended bye-law to substantiate the nature of operation in the field of manual dredging was omitted to be produced and on realising the mistake, the same was caused to be produced at the time of opening the tender. Ext.P2 is a copy of the amended bye-law. There was also a mistake in the application in this regard and the position was sought to be explained then and there. Ext.P3 is the certificate issued by the Jt. Registrar (General) as to the registration of the amendment brought about as per Ext.P2. Despite proving the credentials, the petitioner was not permitted to take part in the bid, which made the petitioner to approach this Court by filing this writ petition.

2. A statement has been filed by the third respondent / Senior Port Conservator pointing out that, production of relevant materials to substantiate the nature of operation in

connection with the manual dredging is a mandatory requirement and that the petitioner admittedly did not produce copy of Ext.P2/P3 at the time of submitting the tender. That apart, in the application against the relevant Column, as to whether any amendment has already been brought about to the bye-law, so as to include the dredging operation as part of the object, the answer given was in the negative. It was in the said circumstance that the tender submitted by the petitioner was not considered and as such, there is nothing arbitrary or illegal on the part of the respondents in this regard.

3. The learned Counsel for the petitioner points out that the Society is giving employment to its members, most of whom , to an extent of more than 90%, are eking out their livelihood based on the manual dredging operations. Reliance is sought to be placed on Ext.P5 Certificate issued by the competent authority to the effect that the petitioner Society was being awarded the work right from 2010 onwards and are still doing such operations. The inadvertent mistake might not be given undue weight to non-suit the petitioner, as the ultimate sufferers will be the members of the Society, who are the manual dredging

workers. It is in the said circumstance that Ext.P4 representation has been preferred before the second respondent/Director of Ports and the prayer is only to cause the same to be considered and disposed of within a reasonable time.

4. Heard the learned Government Pleader as well.

5. Considering the limited nature of relief sought for, this Court does not find it necessary to go into the merits of the case. The writ petition is disposed of, directing the second respondent / Director of Ports to consider and pass appropriate orders on Ext.P4, in accordance with law, at the earliest, at any rate, within one month 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 second respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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