

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 10286 of 2012 (I)

PETITIONER(S):

**LEKHA G., SECRETARY,
M/S PRATHEEKSHA VANITHA KUDUMBASREE UNIT
REGISTRATION NO.308/2011, THUNDUVILA, PAYATTUVILA.P.O.
THIRUVANANTHAPURAM-695501.**

**BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.K.S.HARIDAS
SRI.V.RENJITH KUMAR**

RESPONDENT(S):

- 1. THE MANAGING DIRECTOR, KERALA STATE BEVERAGES CORPORATION LTD., KERALA STATE BEVERAGES CORPORATION, SASTHAMANGALAM, THIRUVANANTHAPURAM-10.**
- 2. THE MANAGER,
KERALA STATE BEVARAGES (M&M) CORPORATION LTD.,
FL-9, WARE HOUSE RUSSELPURAM, BALARAMAPURAM.**
- 3. SECRETARY,
VIGNESWARA KUDUMBASREE, REGISTRATION NO.340/2010
BALARAMAPURAM.P.O, THIRUVANANTHAPURAM.**
- 4. SECRETARY,
SNDP VANITHA SANGHAM, NO.4064, RUSSALPURAM .P.O.,
BALARAMAPURAM, THIRUVANANTHAPURAM, PIN-695501.**
- 5. SECRETARY,
VANITHA WELFARE SANGHAM, MAHISREE BUILDING
PERUMPAZHUTHOOR.P.O, BALARAMAPURAM,
THIRUVANANTHAPURAM. (R5 IS DELETED FROM THE PARTY ARRAY AT
THE RISK OF THE PETITIONER AS PER ORDER DATED 13/12/2012 IN
IA 16837/2012)**

**ADDL.6. M.K.NADEERA
CHARGE OFFICER
KUDUMBASREE COMMUNITY DEVELOPMENT SOCIETY
BALARAMAPURAM.**

**ADDL.7. S.RENJITHKUMAR ,
THEEYAMBOORKONAM, KIZHAKKINKARA, PUTHENVEEDU,
RESSALPURAM, BALARAMAPURAM.**

**ADDL.8. DINESHKUMAR
SECRETARY BALARAMAPURAM GRAMAPANCHAYAT
BALARAMAPURAM.**

**ADDL.9. VASANTHAKUMARI
CHAIR PERSON, BALARAMAPURAM GRAMA PANCHAYAT
KUDUMBSREE COMMUNITY DEVELOPMENT SOCIETY
BALARAMAPURAM.**

**ADDL.10. BINDHU
MEMBER SECRETARY, BALARAMPURAM GRAMA PANCHAYAT
KUDUMBSREE COMMUNITY DEVELOPMENT SOCIETY
BALARAMAPURAM.**

**(ADDL. R6 TO R10 ARE IMPEADED AS PER ORDER DATED 13/12/2012 IN
IA 9248/2012.)**

R1,2 BY ADV. SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORP.

R3 BY ADV. SRI.G.P.SHINOD

R3 BY ADV. SRI.RAM MOHAN.G.

R3 BY ADV. SRI.MANU V.

ADDL. R9,R10 BY ADV. SRI.M.R.RAJESH

ADDL.R7 BY ADV. SRI.T.N.MANOJ

ADDL.R8 BY ADV. SRI.C.J.JOY

R6 BY ADV. SRI.R.SARATHKRISHNAN

ADDL.R10 BY ADV. SRI.R.V.SREEJITH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-11-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS :

- EXT-P1. TRUE COPY OF THE REGISTRATION CERTIFICATE.**
- EXT-P2. TRUE COPY OF THE TENDER NOTICE DATED 24.10.2011 ISSUED BY THE 2ND RESPONDENT.**
- EXT-P3 . TRUE COPY OF THE CASH RECEIPT DATED 4.11.2011 EVIDENCING THE PURCHASE OF TENDER OF THE PETITIONER FROM THE 2ND RESPONDENT.**
- EXT-P4 . TRUE COPY OF THE TENDER FORM ISSUED BY THE 2ND RESPONDENT.**
- EXT-P5. TRUE COPY OF THE EXTENSION NOTICE DATED 9.11.2011.**
- EXT-P6. TRUE COPY OF THE LIST OF TENDERERS WITH THE RATES QUOTED BY THEM PREPARED BY THE 2ND RESPONDENT.**
- EXT-P7 . TRUE COPY OF THE APPLICATION DATED 9.11.2011 EVIDENCING THE APPLICATION FOR REGISTRATION UNDER THE EMPLOYEES' PROVIDENT FUND ACT.**
- EXT-P7(a). TRUE COPY OF THE APPLICATION DATED 9.11.2011 EVIDENCING THE APPLICATION FOR REGISTRATION UNDER THE EMPLOYEES' STATE INSURANCE ACT.**
- EXT-P7(b) . TRUE COPY OF THE APPLICATION DATED 8.11.2011 EVIDENCING THE APPLICATION FOR REGISTRATION UNDER CONTRACT LABOUR (REGULATION AND ABOLITION)ACT.**
- EXT-P7(C). TRUE COPY OF THE APPLICATION DATED 12.11.2011 FOR PERMANENT ACCOUNT NUMBER UNDER INCOME TAX ACT.**
- EXT-P7(D). TRUE COPY OF THE RECEIPT ISSUED BY THE KOTTUKAL GRAMA PANCHAYATH ACCEPTING TAX DATED 15.11.2011.**
- EXT-P7(E). TRUE COPY OF the REGISTRATION CERTIFICATE DATED 16.11.2011 UNDER KERALA SHOPS AND ESTABLISHMENT ACT.**
- EXT-P8 . TRUE COPY OF THE COMPLAINT NUMBER 2474 OF 2011.**
- EXT-P9 . TRUE COPY OF WORK ORDER NO.KSBC/RSLPM/08/11-12 DATED 28.11.2011 ISSUED TO THE 3RD RESPONDENT.**
- EXT-P10 . TRUE COPY OF THE ORDER DATED 23.12.2011 BY LOK AYUKTA.**
- EXT-P11. TRUE COPY OF THE COMMUNICATION DATED 6.2.2012 JOINTLY SIGNED AND ISSUED BY THE CHARGE OFFICER KUDUMBASREE COMMUNITY DEVELOPMENT SOCIETY BALARAMAPURAM GRAMA PANCHAYATH AND VILLAGE EXTENSION OFFICER,BALARAMAPURAM GRAMA PANCHAYATH.**
- EXT-P12 . TRUE COPY OF THE AFFILIATION CERTIFICATE DATED 6.5.2011 ISSUED BY THE KUDUMBASREE COMMUNITY DEVELOPMENT SOCIETY BALARAMAPURAM GRAMA PANCHAYATH TO VIGNESWARA KUDUMBASREE,PULLIYIL,THALAYAL,WARD NO.V OF BALARAMAPURAM GRAMA PANCHAYATH**
- EXT-P13. TRUE COPY OF THE VOTERS LIST PREPARED FOR THE ELECTION OF KUDUMBASREE OFFICE BEARERS IN WHICH THE NAMES OF OFFICE BEARERS OF THE GENUINE VIGNESWARA KUDUMBASREE ARE GIVEN FROM SERIAL NOS.46 TO 50.**

EXT-P14 . TRUE COPY OF THE COUNTER STATEMENT DATED 13.1.2012 FILED BY THE 1ST AND 2ND RESPONDENTS.

EXT-P15. TRUE COPY OF THE COUNTER STATEMENT DATED 13.1.2012 FILED BY THE 1ST AND 2ND RESPONDENTS.

EXT-P16 . TRUE COPY OF THE ORDER DATED 20.1.2012 IN I.A.1189 OF 2011 IN COMPLAINT NUMBER 2474 OF 2011.

EXT-P17. TRUE COPY OF THE JUDGMENT DATED 23.11.2011 IN W.P.(C).2775 OF 2012.

EXT-P18 . TRUE COPY OF THE JUDGMENT DATED 22.3.2012 IN W.A.559 OF 2012.

RESPONDENTS' EXHIBITS :

EXT.R3(A): TRUE COPY OF THE AFFILIATION CERTIFICATE OF THE VIGNESWARA KUDUMBASREE HAVING REGISTRATION NO.368/2010

EXT.R3(B): TRUE COPY OF THE LETTER DT.29.2.12 ISSUED BY THE SECRETARY, BALARAMAPURAM GRAMA PANCHAYAT, IN RESPONSE TO A REQUEST SUBMITTED BY ONE RENJITH KUMAR UNDER THE RIGHT TO INFORMATION ACT.

EXT.R6(A): TRUE COPY OF THE COMMUNICATION DT.18.6.10.

EXT.R6(B): TRUE COPY OF THE CERTIFICATE DT.5.6.11 ISSUED TO VIGNESWARA BY THE CHAIRPERSON AND THE THEN MEMBER SECRETARY

EXT.R6(C): TRUE COPY OF THE COMMUNICATION DT.16.7.12

EXT.R8(A): TRUE COPY OF THE APPLICATION DT.29.2.12 SUBMITTED BY S.RAJITH KUMAR TO R8.

EXT.R8(B): TRUE COPY OF THE REPORT DT.29.2.12 ON EXT.R8(A) GIVEN BY R9 TO R8

EXT.R8(C): TRUE COPY OF THE REPLY DT.29.2.12 GIVEN BY R8 TO S.RAJITH KUMAR

EXT.R8(D): TRUE COPY OF THE APPLICATION DT.13.6.12 UNDER RTI ACT SUBMITTED BY AJIKUMAR TO R8

EXT.R8(E): TRUE COPY OF THE REPORT DT.15.6.12 ON EXT.R8(D) GIVEN BY THE VILLAGE EXTENSION OFFICER TO R8

EXT.R8(F): TRUE COPY OF THE FORWARDING LETTER DT.22.6.12 SENT BY R8 TO THE KUDUMBASREE DISTRICT MISSION CO-ORDINATOR TO R8

EXT.R8(G): TRUE COPY OF REPORT DT.16.7.12 ISSUED BY THE KUDUMBASREE DISTRICT MISSION CO-ORDINATOR TO R8

EXT.R8(H): TRUE COPY OF REPLY DT.19.7.12 ISSUED BY R8 TO AJIKUMAR B.

OKB

True copy

P.A. to Judge

K.HARILAL, J.

W.P.(C) No.10286 of 2012

Dated this the 21st day of November, 2015.

JUDGMENT

This writ petition has been filed with the following prayers:

- i. Call for the records leading to Ext.P9 and quash the same by issuing a writ of certiorari or any other appropriate writ, order or direction;
- ii. issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st and 2nd respondents to award the contract in strict compliance with the conditions stipulated in Ext.P4 tender;
- iii. declare that the 1st and 2nd respondents cannot act in an arbitrary manner and convert the selection proceedings pursuant to Ext.P4 tender a farce granting illegal favour to the 3rd respondent.
- iv. declare that registration for Service Tax as far as the work covered by Ext.P4 notification is concerned, need be obtained only after the award of the contract.
- v. issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st and 2nd respondents to award the contract covered by Ext.P4 tender to M/s. Pratheeksha Vanitha Kudumbasree Unit of which the petitioner functions as the Secretary."

2. Going by Ext.P4, it is seen that the duration of the contract is for a period of three years from the date of execution of the agreement and Ext.P9 shows that the work order was issued on 28.11.2011. Therefore, in accordance with Exts.P4 and P9, the tender period is over by 28.11.2014. In the above view of the matter, the issue involved in this writ petition will not survive after 28.11.2014. In short, the matter has become infructuous. Therefore, this writ petition will stand dismissed.

K. HARILAL, JUDGE

okb.