

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 8128 of 2015 (M)

PETITIONER:

**SARATH G. NAIR,
PROPRIETOR, SURYA TRAVELS, KAP COMPLEX,
R.S.S.ROAD, ALUVA, PIN-683 101.**

**BY ADVS.SRI.J.JULIAN XAVIER
SRI.ROY JOSEPH**

RESPONDENTS:

- 1. THE DIRECTOR,
DIRECTORATE OF PORT, SHIPPING & AVIATION,
U.T. OF LAKSHADWEEP, KAVARATTI ISLAND, PIN-682 555.**
- 2. DEPUTY DIRECTOR (SUPPLY & TRANSPORT),
ADMINISTRATION OF THE U.T. OF LAKSHADWEEP,
WELLINGTON ISLAND, KOCHI, PIN-682 001.**

R1 & R2 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 8128 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

- | | |
|---------------|---|
| EXT.P1 | A TRUE COPY OF THE TENDER NOTICE DATED 11.2.2015 ISSUED BY THE IST RESPONDENT |
| EXT.P2 | A TRUE COPY OF THE TERMS AND CONDITIONS |
| EXT.P3 | A TRUE COPY OF THE TICKET SHOWING THE PETITIONER RETURNED TO KERALA ON 11.3.2015 |
| EXT.P4 | A TRUE COPY OF THE CHELLAN FOR GETTING TENDER FORM. |
| EXT.P5 | A TRUE COPY OF THE CHELLAN DATED 12.3.2015 FOR RS,40,320/- |
| EXT.P6 | A TRUE COPY OF THE REPRESENTATION DATED 12.3.2015 FILED BY THE PETITIONER BEFORE THE IST RESPONDENT. |

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 8128 of 2015

Dated this the 31st day of March, 2015

J U D G M E N T

Loss of opportunity in participating in the tender floated by the respondents made the petitioner to approach this Court by filing the writ petition with the following prayers:

- "i. To issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st respondent not to open the tenders submitted pursuant to Ext.P1 tender notification till petitioner submits his tender within the time granted by this Hon'ble Court.*
- ii. To direct the 1st respondent to issue tender forms to the petitioner so as to submit the tender as per Ext.P1 tender notification.*
- iii. To award cost of these proceedings.*
- iv. To grant such other reliefs that may be deemed just and proper by this Hon'ble Court."*

2. Heard the learned counsel for the petitioner as well as the learned standing counsel appearing for the respondents.

3. The case of the petitioner is that, because of some server problem, the tender could not be uploaded by the petitioner on the last date stipulated in the tender notification. The closing of the tender was by 11 a.m., on 13.03.2015, which

was scheduled to be opened by 3.30 p.m. on the same date. It is stated that, the petitioner was away in Kuwait in connection with his business from 27.02.2015 and it was on his return and coming to know about Ext.P1 notification, that the petitioner took necessary steps to participate in the bid trying to submit the same on 12.03.2015, but failed. This made the petitioner to file Ext.P6 representation on the very same day before the 1st respondent seeking for an opportunity to participate in the bid, which is not acted upon and hence the writ petition.

4. The learned counsel for the petitioner submits that, the petitioner has been assigned the contract as per the existing arrangements and agreements executed in between.

5. The learned standing counsel appearing for the respondents submits that, Ext.P4 tender notification was issued way back on 11.02.2015, mentioning the last date as on 12.03.2015. Nobody else can be blamed by the petitioner, who simply chose to sleep on arm chair and woke up on the last hour. It is also pointed out that, there is no mistake, lapse or failure in any manner on the part of the respondents and as such, no relief sought for by the petitioner is liable to be entertained. It is also

submitted by the learned counsel that there was only a single tender pursuant to Ext.P1, which was virtually a re-tender exercise and the proceedings have already been placed for consideration before the 'tender committee' who will consider the matter and pass appropriate orders, in accordance with law.

In the above circumstance, no interference is possible. The writ petition is disposed of accordingly, directing the respondents to finalize the matter in accordance with law.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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