

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 8233 of 2015 (D)

PETITIONER(S):

**A.R.NASARUDEEN,
REVIVE CONSTRUCTION COMPANY (INDIA) PVT.LTD,
KILIMANOOR PO, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.AJITH KRISHNAN
SRI.DEVAN RAMACHANDRAN**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695001.**
- 2. THE CHIEF ENGINEER,
PUBLIC WORKS DEPARTMENT, NATIONAL HIGHWAY,
PUBLIC OFFICE, THIRUVANANTHAPURAM 695 033.**
- 3. THE SUPERINTENDING ENGINEER, PUBLIC WORKS DEPARTMENT, NATIONAL
HIGH WAYS SOUTH CIRCLE, THIRUVANANTHAPURAM 33.**
- 4. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, N.H. DIVISION,
THIRUVANANTHAPURAM 695033.**
- 5. THE CHIEF COMMISSIONER & PRINCIPAL CO-ORDINATOR,
NATIONAL GAMES, SECRETARIAT,
CHANDRASEKHARAN NAIR STADIUM, PALAYAM,
THIRUVANANTHAPURAM 33**
- 6. THE CHIEF ENGINEER, NATIONAL GAMES SECRETARIAT,
CHANDRASEKHARAN NAIR STADIUM, PALAYAM,
THIRUVANANTHAPURAM-33.**
- 7. THE ADDITIONAL SECRETARY, FINANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695001.**

**R1-4,7 BY ADV. GOVERNMENT PLEADER SRI.T.P.SAJID
R5 BY SRI.SRILAL WARRIAR (SC)
R6 BY ADV. SRI.SREELAL N.WARRIER**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE LETTER NO. 1149/NGS/INFRA/13
DATED 9.1.2015 5TH RESPONDENT REQUESTED TO 2ND
RESPONDENT**
- EXHIBIT P2: TRUE COPY OF THE SCHEDULE OF WORK**
- EXHIBIT P3: TRUE COPY OF THE AGREEMENT NO.21 /SENH/SC/2014-15 ENTERED
INTO BETWEEN THE PETITIONER AND 3RD RESPONDENT**
- EXHIBIT P4: TRUE COPY OF THE LETTER NO. DS 3067/14 DATED 16.1.2015 ISSUED
BY THE 4TH RESPONDENT TO THE PETITIONER**
- EXHIBIT P5: TRUE COPY OF THE LETTER NO.W3 D1 2013/2014 DATED 12.2.2015 BY
THE 3RD RESPONDENT TO 6TH RESPONDENT**
- EXHIBIT P6: TRUE COPY OF THE REPRESENTATION DATED
28.2.2015 SUBMITTED BY THE PETITIONER BEFORE THE
RESPONDENTS**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J

W.P.(C).No.8233 of 2015

Dated this the 30th day of September, 2015

JUDGMENT

The petitioner is a PWD Contractor. He has undertaken the work of junction improvement in connection with the 35th national games. The work was executed pursuant to an agreement entered by the petitioner with the 3rd respondent. Ext.P3 is the agreement.

2. The petitioner approached this Court on account of non-disbursal of the bill amount. In this matter, a counter affidavit has been filed on behalf of the 4th respondent. It is stated in the counter affidavit of 4th respondent as follows :

“Government has been addressed by the 5th respondent for allocation of funds. The 5th respondent has returned the CC 1st and part bill and has directed to re-submit the bill for payment on receiving funds from Government. Hence the 2nd to 4th respondent is in no way responsible for payment to the petitioner. Payment has to be made by the 5th respondent, since the work was ordered be taken up and completed before 25th January 2015 by the 5th respondent.”

3. It is obvious that on account of non-disbursal of the funds by the 5th respondent, the Public Works Department could not settle the bill to the petitioner.

4. The 5th and 6th respondent also have filed the counter affidavit wherein it is stated that the road improvement carried out by the petitioner does not come within the purview of the special games related to road improved plan approved by the Government of Kerala. The work carried out by the petitioner is to be approved and paid for by the NH Division of the State Public Works Department.

5. This Court is of the view that as far as the petitioner is concerned, claims or the bill amount is based on an agreement executed with the 3rd respondent. In that sense, it is for the Public Works Department to honour the bill of the petitioner. The Public Works Department is free to take up the matter with National Games Authority in appropriate manner. Therefore, the bill amount to the petitioner shall be settled within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE,
JUDGE