

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937**

**WP(C).No. 10927 of 2015 (M)**  
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**PETITIONER(S):**  
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**E.M.RADHAKRISHNAN, AGED 42 YEARS  
S/O.E.K.MUKUNDAN, RESIDING AT ELLATH HOUSE, KUMBALAM  
ERNAKULAM-682 506.**

**BY ADV. SRI.PEEYUS A.KOTTAM**

**RESPONDENT(S):**  
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- 1. KERALA STATE ELECTRICITY BOARD LTD  
VYDUTHY BHAVAN, PATTOM PALACE, TRIVANDRUM-695 004  
REPRESENTED BY ITS CHAIRMAN**
- 2. THE DEPUTY CHIEF ENIGNEER  
KERALA STATE ELECTRICITY BOARD LTD  
TRANSMISSION CIRCLE, KALAMASSERY-682 033.**
- 3. THE EXECUTIVE ENIGNEER  
KERALA STATE ELECTRICITY BOARD LTD  
TRANSMISSION DIVISIN, ERNAKULAM-682 030.**
- 4. THE ASSISTANT EXECUTIVE ENIGNEER  
KERALA STATE ELECTRICITY BOARD LTD, SUB DIVISION  
110 KV SUB STATION, KALOOR, ERNAKULAM-682 017.**
- 5. SHIHABUDEEN, AGED 45 YEARS  
S/O.NOT KNOWN, CONTRACTOR, VATTEKKUNNAM  
EDAPPALLY, COCHIN-682 024.**

**R1-4 BY SRI.JAICE JACOB,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**PJ**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXT.P1.        TRUE THE WORK ORDER NO.38/12-13 DATED 14/1/2013  
ISSUED BY THE RESPONDENTS TO THE PETITIONER**
- EXT.P2.        TRUE COPY OF THE WORK ORDER NO.37/13-14 DATED 11/2/2014  
ISSUED BY THE RESPONDENTS TO THE PETITIONER**
- EXT.P3.        TRUE COPY OF THE PROCEEDINGS OF THE ASSISTANT EXECUTIVE  
ENGINEER BARING NO.DB40(A)/14-15/974 DATED 16/2/2015  
EXTENDING THE PERIOD FROM 18/2/2015 TO 31/3/2015.**
- EXT.P4.        TRUE COPY OF THE TENDER NOTICE DATED 5/3/2014 ISSUED BY THE  
4TH RESPONDENT**

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

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

**P.R. RAMACHANDRA MENON J.**

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W.P.(C) No. 10927 of 2015

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Dated, this the 6<sup>th</sup> day of April, 2015

**JUDGMENT**

The petitioner has approached this Court with the following prayers :

(i) Issue a writ of mandamus or any other appropriate writ or order or direction and thereby command the respondents 2 to 4 to allot the work tendered as per Ext. P4 to the petitioner since he has been conducting the work since 2010 onwards and he being the lowest among the amount quoted by the contractors participated in the auction.

(ii) Issue a writ of mandamus or any other appropriate writ or order or direction and thereby command the respondents 2 to 4 not to accept the tender submitted by the 5<sup>th</sup> respondent quoting higher amount than the petitioner and confirm the work in his name in blatant violation of the procedures prescribed under the auction notice and if any such allotment is to be cancelled.

iii) Grant such other reliefs which are just and necessary in the interest of justice.

2. The learned counsel for the petitioner submits that the petitioner actually quoted 47.1 % below the estimated rate and hence happened to be lowest among the bids submitted in response to Ext.P1 tender notice. As against Ext. P1, the 5<sup>th</sup> respondent only quoted 39.5 % below the estimated rate and the work has been awarded to 5<sup>th</sup> respondent. This made the petitioner to approach this Court by filing the present writ petition.

3. Heard the learned standing counsel appearing for the respondents, who submits, on instructions, that as per the tender conditions, intending bidder had to submit the EMD along with the documents showing three years experience and a bounden agreement in stamp paper . As far as the petitioner is concerned, he has not submitted bounden agreement as prescribed in Ext. P4. The learned counsel for the petitioner points out that agreement can be executed only after the work is allotted and as such the said defect cannot be a material one. But the fact remains that no stamp paper was produced by the petitioner and the bid submitted by the 5<sup>th</sup> respondent is stated as accepted and an agreement has already been executed, as pointed out by the learned standing counsel appearing for the respondent Board.

4. After hearing both the sides, this Court finds that in so far as tender conditions are not fully satisfied by the petitioner, this is not a fit case to call for interference. However the petitioner is set at liberty to pursue the matter, if at all any vested right is infringed in any manner, by way of appropriate proceedings before the appropriate forum.

Sd/-

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

kmd