

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 14950 of 2012 (P)

PETITIONER:

K.VISWAMBARAN, AGED 63 YEARS
S/O. K. KUMARAN, GURU VANDANAM, KOTTAPPURAM
PARAVOOR.P.O, KOLLAM.

BY ADVS.SRI.S.MUHAMMED HANEEFF
SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (NATIONAL HIGH WAYS)
THIRUVANANTHAPURAM - 695 001.
3. ASSISTANT EXECUTIVE ENGINEER,
P.W.D (N.H SUB DIVISION), KOLLAM - 691 001.

Addl.4. PRAVEEN.B.
ANJANEYAM, PAZHAYAR, EAST KALLADA, KOLLAM.

Addl.5. N.GOPINATHAN
KOLLAM JILLA PATTIGAJATHI LABOUR CONTRACT CO-OPERATIVE
SOCIETY LTD Q NO.1057, PERUNAD.P.O., KOLLAM.

Addl.6. SUNILAL.S.
SUJITHA MANDIRAM, PERAYAM, UMayANALLOOR.P.O.
KOLLAM.

Addl.7. KOLLAM JILLA NEW CONTRACT CO-OPERATIVE SOCIETY Q 1240,
MARATHODY, REP.BY ITS PRESIDENT, KOLLAM.

ADDL. R4 TO R7 ARE IMPEADED AS PER ORDER DATED 24/07/2012 IN IA
9333/2012.

R BY GOVERNMENT PLEADER SMT. SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) 'S EXHIBITS:

EXHIBIT-P1-TRUE COPY OF THE TENDER NO. D(2) 262/91 DATED
22/05/2012 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P2-TRUE COPY OF THE PROCEEDINGS ON. D 262/91 DATED
10/06/2012 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P2(a) -TRUE COPY OF THE RELEVANT EXTRACT OF AMENDED PWD
MANUEL.

EXHIBIT-P3-TRUE COPY OF THE CIRCULAR NO. 26440/H3/2011/
PWD DATED 27/03/2012 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

A. V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.14950 of 2012

Dated this the 19th day of January, 2015.

JUDGMENT

In this writ petition, the petitioner is challenging Ext.P3, by which it was specified that those contractors who quote 20% or below the estimated rate, should be insisted for performance guarantee.

2. As per Ext.P1, the third respondent invited tenders in respect of 9 works. The petitioner alleges that he is an 'A' Class Contractor, has submitted his tender in respect of Item Nos. 4, 5, 6, 8 and 9. All these works carried P.A.C between Rs.3 lakhs and Rs.5 lakhs and the petitioner had quoted the aforementioned works which is item Nos.4 to 6 and 8 to 9 in Ext.P1 at 27.9% below the P.A.C. The grievance of the petitioner is that his tender has been rejected by the third respondent as per his proceedings dated 16.6.2012 stating that a tender quoting a rate below 25% of P.A.C. shall be rejected as per amended PWD manual. According to the

petitioner, as per the tender notification, there is no such stipulation and if there is any such stipulation, the respondents should have incorporated the same in the tender notification. It is with this background, the petitioner has come up before this Court.

3. Today, when the matter was taken up for hearing, the learned Government Pleader submitted that the work has already been allotted and it is almost completed. This was the submission when the writ petition came up for consideration on 24.7.2012. As it appears from the court, the matter has become infructuous. The writ petition is closed without examining the merits.

Sd/-
A. V. RAMAKRISHNA PILLAI
JUDGE

Scl.