

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 11427 of 2015 (C)

PETITIONER :

**THE KANNUR DISTRICT BUILDING MATERIALS,
FURNITURE MARKETING AND MANUFACTURING CO-OPERATIVE SOCIETY
NO.C 1630, CHAKKARAKAL, MOWENCHERY
KANNUR, REPRESENTED BY ITS SECRETARY.**

**BY ADVS.SRI.V.PREMCHAND
SRI.V.TEKCHAND**

RESPONDENT(S) :

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEPARTMENT OF PORTS
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF PORTS,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
- 3. THE SENIOR PORT CONSERVATOR,
PORT & SHIPPING OFFICE, AZHEEKKAL, KANNUR.**

BY GOVT. PLEADER SMT. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 11427 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: COPY OF THE TENDER NOTIFICATION DATED 19/12/2014 ISSUED BY
 THE 3RD RESPONDENT.**
- EXT. P2: COPY OF THE TENDER FORM IN RESPECT OF THE TENDER FOR THE
 FINANCIAL YEAR 2014-2015.**
- EXT. P3: COPY OF THE JUDGMENT DATED 11/03/2015 IN WPC.NO.5073/2015.**
- EXT. P4: COPY OF THE CERTIFICATE 15/01/2015 ISSUED BY THE 3RD
 RESPONDENT.**
- EXT. P5: COPY OF THE LIST DATED NIL OF THE NAMES SOCIETIES WHO
 PARTICIPATED IN THE TENDER.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No. 11427 of 2015

Dated this the 18th day of June, 2015

J U D G M E N T

The petitioner, who has been carrying on dredging work in the Port coming within the jurisdiction of the 3rd respondent challenges the continued proceedings taken on Ext.P1 notification. According to the petitioner the notification calling for tenders to award dredging work for the financial year 2014-15, is continued with by the Government; despite the fact that the said financial year is over.

2. The notification at Ext.P1 was published on 19.12.2014. It does not refer to the dredging work for any financial year. The tender form at Ext.P2 refers to the financial year 2014-15. Obviously, no work as per Ext.P1 could have been granted for the said financial year since the notification itself is of December 2014. Considerable development has been made in the

process of tendering as per Ext.P1. Initially there is a preliminary scrutiny and then a financial bid and only after that on evaluation of various tenders the work is awarded. Admittedly the work notified by Ext.P1 has not been awarded till now. The petitioner who was carrying on the dredging operation had applied under Ext.P1; but the tender was rejected at the preliminary stage itself.

3. The petitioner was earlier before this Court with a writ petition which was disposed of by Ext.P3 judgment. Even after Ext.P3, the petitioner's claim has not crossed the threshold eligibility, which is admitted by the petitioner. No further challenge to petitioners rejection is made. The financial bid has been finalised and a list has now been published by Ext.P5. The petitioner contends that now, from Ext.P5 list the Government is going to award the dredging work for the next year which is not covered by the notification. The petitioner also relies on a judgment of the Allahabad High Court, reported in Vashisht Kumar Jaiswal v. State of U.P and others (2004 KHC 3120).

4. As was noticed hereinabove, though tender forms spoke of the financial year 2014-15, the notification published only in December, 2014, did not specify the period. The process commenced with Ext.P1 and is not yet finalised. No work has been awarded and the earlier tenderor, specifically the petitioner herein has been continuing the work subject to the award to be made by the Port. The decision referred to by the learned counsel would not be applicable since that was with respect to a specific award having been granted for a specific period.

5. In the present case, if it is now found that the Government cannot proceed with Ext.P1 to award the dredging contract for the future period, then, definitely the Government would have to bring out a fresh notification and start the process afresh which would again lead to further delay and would cause more expenditure for the Government. Going by the recitals in the notification, this Court finds that there is no legal impediment in the Government proceeding with the tender at Ext.P1 and

awarding the same as specified in the tender notification. In directing the Government to come out with a fresh notification for the coming financial year, it is also to be noticed that the petitioner would stand to benefit by getting extension of the work; which he is now carrying on till finalisation, when he has failed to qualify in the preliminary scrutiny itself.

6. The petitioner's rejection at the preliminary stage has become final. The petitioner's attempt is to see that the petitioner be continued with the work and the petitioner gets a fresh opportunity to apply again for the work. That cannot be countenanced especially since it involves huge expenditure to the Government.

Writ petition would stand dismissed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge