

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11497 of 2015 (J)

PETITIONER :

**M/S. CANDELA ENGINEERING CORPORATION,
DOOR NO.III/246, MANIYATTU BUILDING, KURUPPAMPADY.P.O.,
PERUMBAOOR,PIN-683 545, REPRESENTED BY ITS MANAGING PARTNER
SRI.ANOOP K. MADHAV,S/O.K.P. MADHAVAN,AGED 29 YEARS,
RESIDING AT KODOTH HOUSE, KURUPPAMPADY.P.O.,
PERUMBAOOR,PIN-683 545, KUNNATHUNAD TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.K.SUNILKUMAR

RESPONDENT(S):

- 1. THE DIVISIONAL RAILWAY MANAGER (ELECTRICAL),
SOUTHERN RAILWAY, PALGHAT-678 002.**
- 2. THE DIVISIONAL ELECTRICAL ENGINEER,
DIVISIONAL OFFICE, ELECTRICAL BRANCH,
SOUTHERN RAILWAY, PALGHAT-678 002**
- 3. GENERAL MANAGER, SOUTHERN RAILWAY,
HEAD QUARTERS, CHENNAI-01**

BY SRI.C.S.DIAS,SC, RAILWAYS

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE RELEVANT PAGES OF TENDER BOOKLET (PAGE NO'S 1, 10, 16 AND 28) ISSUED BY THE 1ST RESPONDENT.
- P2 COPY OF THE LETTER OF ACCEPTANCE DATED 23/10/2014) ISSUED BY THE 1ST RESPONDENT.
- P2(A) COPY OF THE FD RECEIPT ISSUED BY THE FEDERAL BANK LIMITED KURUPPAMPADY BRANCH
- P3 COPY OF THE LETTER DATED 08/01/2015 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.
- P4 COPY OF THE LETTER DATED 19/02/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- P5 COPY OF THE APPLICATION DATED 19/02/2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P6 COPY OF THE LETTER DATED 05/03/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- P7 COPY OF THE LETTER DATED 18/03/2015 ISSUED BY M/S BAJAJ ELECTRICALS LTD TO THE PETITIONER.
- P8 COPY OF THE LETTER 20/03/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- P9 COPY OF THE TERMINATION LETTER NO.J/E.29/III/HM LIGHTING TLY-BDJ-CLT DATED 25/03/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.11497 of 2015

Dated this the 9th day of April, 2015

JUDGMENT

The petitioner has approached this Court mainly challenging Ext.P9, whereby the contract awarded to the petitioner has been terminated by the 1st respondent. The prayers are in the following terms:

"i) To call for the records leading to Exhibit P8 letter dated 20.03.2015 issued by the 2nd respondent and Exhibit P9 Termination letter No.J/E.29/III/HM Lighting-TLY-BDJ-CLT dated 25.03.2015 issued by the 1st respondent and to quash the same by issuing a writ of Certiorari or any other appropriate writ, order or direction.

ii) To issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to grant two months time for completing the work of provision of improvements to lighting arrangements in Palghat Division by providing high mast lighting in circulating areas at Thalasseri, Vadakara and Kozhikode stations, without insisting payment of penalty as per Exhibit P1 Tender Booklet.

iii) Any other reliefs which this Honourable Court may deem fit and proper to grant, in the interest of justice."

2. Heard the learned Standing Counsel appearing for the

respondents as well.

3. It is brought to the notice of this Court by the learned Standing Counsel that, the termination of contract has been effected because of no other alternative, as the petitioner failed to satisfy the requirements in terms of the tender conditions. It is also pointed out that, the petitioner is having other alternative remedy by virtue of arbitration as provided under Clause 63 of the general conditions of contract.

Without prejudice to the rights and liberties of the petitioner to pursue the matter as aforesaid, by way of alternative remedy, interference is declined and the writ petition is dismissed.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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