

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11651 of 2015 (F)

PETITIONER(S):

**M/S. THERUVATH BUILDERS, VIII/240,
THERUVATH BUILDINGS, UZHAVOOR,
KOTTAYAM-686634, REPRESENTED BY
THE EXECUTIVE PARTNER, PHINU THOMAS.**

**BY ADVS.SRI.K.L.VARGHESE (SR.)
SMT.SANTHA VARGHESE
SRI.RAHUL VARGHESE
SRI.RANJITH VARGHESE**

RESPONDENT(S):

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS (NATIONAL HIGHWAY) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE SUPERINTENDING ENGINEER,
NATIONAL HIGHWAY, SOUTH CIRCLE,
OPPOSITE TO LOURDES CHURCH, PMG,
THIRUVANANTHAPURAM.**
- 3. THE CHIEF ENGINEER,
NATIONAL HIGHWAY, PUBLIC OFFICE, MUSEUM POST,
THIRUVANANTHAPURAM.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE NOTICE INVITING TENDER**
- P2: COPY OF THE NATIONAL COMPETITIVE BIDDING AND INSTRUCTIONS TO BIDDERS UNDER SECTION 1**
- P3: COPY OF THE PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 2014**
- P4: COPY OF AGREEMENT DATED 5/5/14 EXECUTED BETWEEN THE PETITIONER AND THE 2ND RESPONDENT IN RESPECT OF THE WORK OF CRF 2013-14- IMPROVEMENTS TO DANAPADY-KARTHIKAPPALLY-MUTHUKULAM,- PULLUKULAMNGARA-KAYAMKULAM (NH TO NH)**
- P5: COPY OF LETTER DT.19/3/15 ISSUED BY THE PETITIONER TO THE R3**

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 11651 of 2015

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Dated, this the 8th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) A writ of mandamus or any other appropriate writ, order or direction be issued, calling upon the respondents to consider Ext. P5 representation treating 'assessed available bid capacity' taking into account the cost of 'completed' as well as 'work in progress' as indicated in the formula in Ext. P2.

(ii) A writ of certiorari or any other appropriate writ, order or direction be issued, calling for all the documents leading to tender processing and steps for awarding the work disregarding petitioner's entitlement to be pre-qualified as stated above and quash the same.

(iii) Grant costs to the petitioner and such other reliefs as are prayed for and deemed fit to be granted in the circumstances of the case."

2. The grievance of the petitioner is that in spite of the fact that petitioner has chosen to prove the credentials to participate in the bid floated by the respondents, pursuant to Ext. P1 notice, the tender submitted by the petitioner was not being considered and acted upon, based on some wrong interpretation with regard to pre-

qualification. The position has been sought to be explained in the writ petition.

3. The learned counsel for the petitioner submits that the petitioner has already moved the third respondent by filing Ext. P5 representation and that the petitioner will be satisfied, if a direction is given to the said respondent to have it considered within a reasonable time.

4. Heard the learned Government Pleader as well.

5. Considering the limited extent of relief sought for, this Court does not find it necessary to go into merits of the case. The writ petition is disposed of, directing the third respondent to consider and pass appropriate orders on Ext. P5 in accordance with law, after giving an opportunity of hearing to the petitioner, at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the third respondent for further steps.

Sd/-

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

kmd