

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYASHTA, 1937

WP(C).No. 12576 of 2015 (V)

PETITIONER:

**JOHN KENNETH,S/O.CELESTIN FERNANDEZ,
AGED 55 YEARS,HOUSE NO.30,CO-OPERATIVE COLONY,
VADDY,KOLLAM DISTRICT,PIN - 691 013.**

**BY ADVS.SRI.C.RAJENDRAN
SRI.K.R.RANJITH**

RESPONDENT'S:

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO HARBOUR
ENGINEERING DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695 009.**
- 2. CHIEF EXECUTIVE ENGINEER,
HARBOUR ENGINEERING DEPARTMENT,
MANAKKAD P.O.,THIRUVANANTHAPURAM - 695 009.**
- 3. SUPERINTEND ENGINEER,
HARBOR ENGINEERING DEPARTMENT,
MANAKKAD P.O.,THIRUVANANTHAPURAM - 695 009.**
- 4. EXECUTIVE ENGINEER,
HARBOR ENGINEERING DEPARTMENT,
ASHRAMAM P.O.,KOLLAM - 691 013.**
- 5. ALEXANDER,MALIAKKAL VEEDU,KUNNATHALA,
KOLLAM WEST VILLAGE,KOLLAM DISTRICT - 691 001.**
- 6. HILLARIYOUSE,25 - LILLY HOUSE,MAMMAYI PURAYIDAM,
VADDY,KOLLAM - 691 013.**

R1 TO R4 BY GOVT. PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P-1: A TRUE PHOTOCOPY OF THE LETTER DATED 30.9.2014.
- EXT.P-1(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P1.
- EXT.P-2: A TRUE PHOTOCOPY OF THE REPRESENTATION DATED 29.1.2015
SUBMITTED BY THE PETITIONER BEFORE THE 3RD
RESPONDENT.
- EXT.P-2(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P2.
- EXT.P-3: A TRUE PHOTOCOPY OF THE LETTER DATED 25.2.2015 ISSUED BY
THE 4TH RESPONDENT.
- EXT.P-3(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P3.

RESPONDENT'S EXHIBITS:

- EXT.R4(a): TRUE COPY OF THE NOTICE INVITING TENDER NO.E2-3347/2014/
EXECUTIVE ENGINEER DATED 20.8.2014.
- EXT.R4(b): TRUE COPY OF THE AGREEMENT ON STAMP PAPER WORTH
RS.100/-.
- EXT.R4(c): TRUE COPY OF THE LETTER NO.E2-3347/2014/EE
DATED 10.11.2014.
- EXT.R4(d): TRUE COPY OF THE LETTER NO.A1-4876/12/SE DATED 21.11.2014.
- EXT.R4(e): TRUE COPY OF THE NOTICE INVITING TENDER.
- EXT.R4(f): TRUE COPY OF THE NOTICE INVITING TENDER.
- EXT.R4(g): TRUE COPY OF THE APPLICATION DATED 10.10.2014 OF THE
PETITIONER.

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) No. 12576 of 2015 (V)

Dated this the 1st day of June, 2015

J U D G M E N T

The petitioner is aggrieved with the rejection of a tender submitted for collecting entry fee from the vehicles entering and leaving Thangasherry Fishing Harbor, Kollam.

2. Admittedly, the petitioner did not execute the preliminary agreement which was to be submitted along with the tender. The notification is produced at Ext.R4(a), which specifically contains a condition that those who submit tenders have to submit a duly executed preliminary agreement in Rs.100/- stamp paper before the submission of the tender and those who participate in the auction, before the auction itself.

3. The petitioner's contention is that he had submitted an agreement in Rs.100/- stamp paper, but however did not execute it. The notification specifically speaks of an executed agreement, which alone would clothe

the awarder with the power to proceed against the successful tenderer on any failure committed thereafter. The rejection order at Ext.P1 also speaks specifically of the said ground.

4. Further, it is submitted by the learned Government Pleader that the petitioner was the only tenderer pursuant to Ext.R4(a) notification and the bid submitted was Rs.10 lakhs, which was far below the award for an amount of Rs.16 lakhs in the previous year. It is also submitted that a subsequent tender invited also did not evoke favourable bids and hence the matter is placed before the Government. The contention is that the petitioner having submitted a far lower bid than the earlier year and there being no other competitive tenders, the Government could have invoked the provision in Ext.R4(a) to unconditionally cancel the same.

In any event, without going into that aspect, it is to be noticed that the petitioner obviously did not comply with the tender conditions. On that count itself, the writ petition is found to be devoid of merit and same is dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE