

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 8TH DAY OF MAY 2015/18TH VAISAKHA, 1937

WP(C).No. 13772 of 2015 (V)

PETITIONER :

**T.A.XAVIER,S/O. AUGUSTINE, AGED 67 YEARS,
CONTRACTOR, M/S.T.A.XAVIER & SONS,
THAREPARAMBIL HOUSE, PALLURUTHY P.O.,
KOCHI-682 006.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.T.ABHILASH**

RESPONDENT(S):

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. CHIEF ENGINEER,
LOCAL SELF GOVERNMENT DEPARTMENT, PUBLIC OFFICES,
MUSEUM, THIRUVANANTHAPURAM-695 033.**
- 3. PALA MUNICIPALITY,
PALA P.O., KOTTAYAM DISTRICT-686 575,
REPRESENTED BY ITS SECRETARY.**
- 4. MUNICIPAL ENGINEER,
PALA MUNICIPALITY, PALA, KOTTAYAM DISTRICT-686 575.**
- 5. SUPERINTENDING ENGINEER,
PWD (ROADS & BRIDGES), SOUTH CIRCLE, PUBLIC OFFICES,
MUSEUM, THIRUVANANTHAPURAM-695 033.**

**R1,R2 & R5 BY GOVERNMENT PLEADER SMT.ROSE MICHAEL
R3 & R4 BY SRI.V.M.KURIAN, SC, PALA MUNICIPALITY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE TENDER NOTIFICATION DTD. 14.5.2013 ISSUED BY THE 3RD RESPONDENT.
- P2 : COPY OF THE RELEVANT PORTION OF THE AGREEMENT NO.2/13-14 DTD. 3.9.2013 EXECUTED BETWEEN THE PETITIONER AND THE 3RD RESPONDENT.
- P3 : COPY OF THE RELEVANT PAGE OF THE SCHEDULE ATTACHED TO EXT.P2 AGREEMENT DETAILING THE PILING WORKS.
- P4 : COPY OF THE LETTER DTD. 1.1.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- P5 : COPY OF THE PROCEEDING DTD. 22.2.2014 OF THE 3RD RESPONDENT.
- P6 : COPY OF THE RELEVANT PORTION OF CLAUSE 13 CONDITIONS ATTACHED TO EXT.P2 AGREEMENT.
- P7 : COPY OF THE RELEVANT PAGES OF THE SCHEDULE OF WORKS INVOLVED IN AGREEMENT NO.8/SESC/2014-15 DTD. 30.5.2014, EXECUTED BETWEEN RAJI MATHEW AND THE 5TH RESPONDENT, DETAILING THE APPROVED RATE FOR THE DMC PILING WORKS.
- P7(A) : COPY OF THE DATA OF 400, 500 AND 600 PILE SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- P8 : COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT WITH RELEVANT PAGES OF THE RUNNING ACCOUNT MAINTAINED BY THE 3RD RESPONDENT.
- P9 : COPY OF THE REPRESENTATION DTD. 24.3.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(QNo.13772 OF 2015

Dated this the 8th day of May, 2015

JUDGMENT

The writ petition is filed challenging the denial of rate as provided in Ext.P7 schedule of rates of the fifth respondent, as provided under Ext.P6 conditions of Ext.P2 agreement, for the DMC piling works, which are not included in Ext.P2 agreement.

2. Heard learned counsel for the parties and perused the materials available on record.

3. In the facts and circumstances, there will be a direction to the second respondent to consider and pass appropriate orders on Ext.P9, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. In the meanwhile, there will be a direction to the third respondent to disburse any admitted amount to the petitioner without any further delay, at any rate, within a period of four weeks.

Writ petition is disposed of.

**A.MUHAMED MUSTAQUE
JUDGE**

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