

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 14564 of 2015 (U)

PETITIONER:

**T.N.DEVANANDAN, MANAGING DIRECTOR,
M/S. ABUTSTONE PROJECT SOLUTIONS PVT. LTD.,
28/1454, PUTHIYA ROAD, ANAMTHURUTHIL,
KADAVANATHARA, ERNAKULAM.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)**

RESPONDENT(S):

- 1. THE SUPERINTENDING ENGINEER,
PUBLIC WORKS DEPARTMENT,
BUILDING SOUTH CIRCLE,
THIRUVANANTHAPURAM - 695001.**
- 2. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
(BUILDING DIVISION), PATHANAMTHITTA - 689645.**
- 3. STATE OF KERALA, REPRESENTED BY THE SECRETARY,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE QUATATION NOTICE FOR EXECUTION OF THE WORK
CONSTRUCTION OF A DEPARTMENT BLOCK FOR IHRD COLLEGE OF
ENGINEERING, ADOOR.
- P2: TRUE COPY OF THE SELECTION NOITCE DT.12.05.2015 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER.
- P3: TRUE COPY OF THE INTIMATION ISSUED FROM THE OFFICE OF THE
EXECUTIVE ENGINEER DT. 14.05.2015.
- P4: TRUE COPY OF THE REPRESENTATION DT.13.05.2015 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.
- P5: TRUE COPY OF THE ORDER DT.17.11.2014 ISSUED BY THE SUPERINTENDENT
ENGINEER, ROAD & BRIDGES DIVISION.
- P6: TRUE COPY OF THE JUDGMENT DT.13.02.2015 PASSED BY THIS
HONOURABLE COURT IN WPC.NO.4224/2015.
- P7: TRUE COPY OF THE JUDGMENT DT.18.02.2015 PASSED BY THIS
HONOURABLE COURT IN WPC.NO.4753/2015.
- P8: TRUE COPY OF THE JUDGMENT DT.09.04.2015 PASSED BY THIS
HONOURABLE COURT IN WPC.NO.11287/2015.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P(C) No.14564 of 2015

Dated this the 21st day of May, 2015.

JUDGMENT

Petitioner is a contractor, who has been regularly applying for and being awarded contracts of the Public Works Department of the State. The petitioner has also applied for the award of work as per Ext.P1 notification and in which Ext.P2 selection order was passed. However, the petitioner is required to remit an amount of Rs.50,71,600/- (Rupees Fifty lakhs seventy one thousand and six hundred only), 25% of which has to be made in the form of Treasury Deposit and the balance in the form of National Savings Certificate or in the form of Bank Guarantee from any Nationalised or Scheduled Bank having validity for 55 months.

2. The petitioner's specific contention is that, the petitioner has executed other works with the very same Department, the

bills of which are pending, which would come to a total of Rs.1,54,37,889/- (Rupees One Crore fifty four lakhs thirty seven thousand eight hundred and eighty nine only). The same is evidenced by the communication issued by the Executive Engineer, PWD produced at Ext.P3. The petitioner contends that there is considerable delay in payment of the bills being processed and being effected. Since amounts far in excess of the amount demanded in Ext.P2 is pending consideration with the Government itself, the petitioner may be exempted from making the deposit as indicated in Ext.P2, is the argument.

3. The learned Government Pleader appearing for the State would contend that in fact such orders have been passed in Exts.P6,P7 and P8 judgments and though a dispute is not intended to be raised on that account, there can be no prayer as to the deduction being effected from a later bill, since the Government sanctions the bills according to the seniority of pendency. The fact remains that, amounts far in excess the amount demanded in Ext.P2 is pending sanction for payment to the petitioner as per Ext.P3.

4. In such circumstances, the petitioner can be exempted from the deposit as indicated in Ext.P2 on the petitioner filing an undertaking before the first respondent that an amount of Rs.50,71,600/- shall be deducted from the first bill hereafter sanctioned or released for payment to the petitioner and such amounts retained with the Department in satisfaction of the demand made as per Ext.P2.

The writ petition is disposed of with a direction to the petitioner to produce certified copy of the judgment and the undertaking as above within a period of two weeks from the date of receipt of a certified copy of this judgment. It is made clear that no cancellation of Ext.P2 shall be made in the meanwhile.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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