

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 15503 of 2015 (K)

PETITIONER :

**ISSAC MATHEW
THERAVAKKATTIL HOUSE,
PATTIMATTOM P.O., VALAMBOOR
CHENGARA, ERNAKULAM -683 562.**

BY ADV. SRI.JINU JOSEPH

RESPONDENT(S) :

- 1. THE SUPERINTENDING ENGINEER
OFFICE OF THE SUPERINTENDING ENGINEER, PWD BUILDINGS
CENTRAL CIRCLE, THRISSUR-680 001.**
- 2. THE SUPERINTENDING ENGINEER
OFFICE OF THE SUPERINTENDING ENGINEER
PWD ROADS AND BRIDGES, CENTRAL CIRCLE,
ALUVA-683 101.**
- 3. THE EXECUTIVE ENGINEER
PWD BUILDINGS DIVISION, EDAPPALLY,
ERNAKULAM-682 025.**
- 4. THE EXECUTIVE ENGINEER
PWD ROADS AND BRIDGES, TRIKKAKARA P.O,
ERNAKULAM-682 021.**
- 5. STATE OF KERALA
REPRESENTED BY THE SECRETARY
PUBLIC WORKS DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.**

R1 TO R5 BY GOVT. PLEADER SMT. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 15503 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1. COPY OF THE SELECTION NOTICE DATED 21.4.15 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P2. COPY OF LETTER DATED 12.5.15 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P3. COPY OF THE ORDER DATED 17.11.14 PASSED BY THE SUPERINTENDING ENGINEER ADJUSTING AN EQUAL AMOUNT OF PENDING BILL TOWARDS SECURITY DEPOSIT.

EXHIBIT P4. COPY OF JUDGMENT IN WP(C) NO. 4753 OF 2015 DATED 18.2.15.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.

W.P.(C) No. 15503 of 2015 (K)

Dated this the 02nd day of June, 2015

J U D G M E N T

The petitioner is a contractor, who has been regularly carrying on contracts awarded by the Public Works Department of the State. The petitioner has been awarded with a work. However, the petitioner is required to remit an amount of Rs.7,61,160/- (Rupees Seven lakh sixty one thousand one hundred and sixty only only), 50% 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 43 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.9,37,010/- (Rupees Nine lakh thirty seven thousand and ten only). The same is

evidenced by the communication issued by the Executive Engineer, PWD produced at Ext.P2. The petitioner contends that there is considerable delay in the bills being processed and payment being effected. Since amounts in excess of the amount demanded in Ext.P1 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 Ext.P4 judgment 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.

4. The fact remains that, amounts far in excess the amount demanded in Ext.P1 is pending sanction for payment to the petitioner as per Ext.P2. In such circumstances, the petitioner can be exempted

from the deposit as indicated in Ext.P1 on the petitioner filing an undertaking before the first respondent that an amount of Rs7,61,160/- 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.P1.

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.P1 shall be made in the meanwhile.

Sd/-
K.VINOD CHANDRAN,
JUDGE

jma //true copy//

P.A to Judge