

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 15715 of 2015 (L)

PETITIONER(S) :

M.A.HAKKIM,
AGED 63 YEARS, 'WOOD SHADE',
KARAMCODE P.O., CHATHANNOOR,
KOLLAM -691 579.

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

RESPONDENT(S) :

1. THE SUPERINTENDING ENGINEER,
BUILDINGS SOUTH CIRCLE, THIRUVANANTHAPURAM -695 001.
2. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, (BUILDING DIVISION),
THIRUVANANTHAPURAM - 695 033.
3. THE EXECUTIVE ENGINEER,
PWD BUILDINGS DIVISION, KOLLAM -691 001.
4. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, PUBLIC WORKS DEPARTMENT,
SECRETARIAT, TRIVANDRUM -695 001.

BY GOVERNMENT PLEADER SMT. C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P-1: TRUE COPY OF THE QUOTATION NOTICE DATED 4.11.2014.
- EXT.P-2 TRUE COPY OF THE SELECTION NOTICE DATED 12.5.2015.
- EXT.P-3: TRUE COPY OF THE INTIMATION ISSUED FROM THE OFFICE OF THE EXECUTIVE ENGINEER, BUILDING DIVISION, TRIVANDRUM, DATED 14.5.2015.
- EXT.P-4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT.20.5.2015.
- EXT.P-5: TRUE COPY THE ORDER DATED 17.11.2014 PASSED BY THE SUPERINTENDING ENGINEER.
- EXT.P-6: TRUE COPY OF JUDGEMENT DT.13.2.2015 PASSED BY THIS HON'BLE COURT IN WPC NO.4224/2015.
- EXT.P-7: TRUE COPY OF JUDGEMENT DT.18.2.2015 PASSED BY THIS HON'BLE COURT IN WPC NO.4753/2015.
- EXT.P-8: TRUE COPY OF JUDGEMENT DT.9.4.2015 PASSED BY THIS HON'BLE COURT IN WPC NO.11287/2015.
- EXT.P-9: TRUE COPY OF THE CERTIFICATE DATED 23.5.2015 ISSUED BY THE SBT, CHATHANNOOR.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P.(C) No. 15715 of 2015 (L)

Dated this the 28th day of May, 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 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.29,08,850/- (Rupees twenty nine lakhs eight thousand eight hundred and fifty 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.74,88,749/- (Rupees seventy four lakhs eighty eight thousand seven hundred and forty 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 the bills being processed and payment 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.

4. 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. 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.29,08,850/- 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