

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C) .No. 17025 of 2014 (C)

PETITIONER(S) :

V K JOHNY,
AGED 68 YEARS, S/O.LATE V.P.KURIAKOSE,
MANAGING PARTNER, M/S.V.C. CONSTRUCTIONS,
VANACHIRACKAL HOUSE,
KANGARAPPADY P.O., KOCHI - 682 021

BY ADV. SMT.MARY BENJEMIN.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
 2. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
 3. DIRECTOR,
CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION,
1ST FLOOR, CO-BANK TOWERS,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM - 695 033.
 4. GENERAL MANAGER,
KERALA STATE CONSTRUCTION CORPORATION,
DOOR NO.30/1521-A,M BAY UNDER THE BRIDGE,
NORTHERN SIDE OF RAILWAY, COCHIN 682 021.
- R3 BY V.KRISHNA MENON, SC, CO.OP.ACADEMY OF PROFESSIONAL
EDUCATION,
- R2 BY GOVERNMENT PLEADER SRI.P.V.LONACHAN,
BY SRI.M.V.THAMBAN, SC., KSCC LTD.,
BY SRI.E.K.MADHAVAN, SC, CO.OP.ACADEMY OF PROFESSIONAL
EDUCATION &
BY SMT.P.VIJAYAMMA, SC, CO.OP.ACADEMY OF PROFESSIONAL
EDUCATION,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P-1: TRUE COPY OF THE PROCEEDINGS DATED 7.5.2012 OF THE 3RD RESPONDENT.

EXT.P-2: TRUE COPY OF REQUEST DATED 28.5.2014 SUBMITTED BY THE PETITIONER.

EXT.P-3: TRUE COPY OF LETTER NO.ACCI-1960/O.D - 541 - 83/2013 - 14 DT.12.2.2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P-4: TRUE COPY OF REPRESENTATION DATED 1.3.2014 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P-5: TRUE COPY OF PROCEEDINGS NO.12431/SI/2014/H&FWD DATED 21.5.14 OF THE 1ST RESPONDENT.

EXT.P-6: TRUE COPY OF THE MINUTES DATED 07/01/2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.17025 of 2014

Dated this the 17th day of March, 2015

J U D G M E N T

Read order dated 11.12.2014. Thereafter a meeting was convened on 7.3.2015 and a decision was taken directing the Co-operative Academy of Professional Education (CAPE), the 3rd respondent to pay amount due to the Contractor. Thereafter, again a decision was taken on 5.3.2015 in a meeting convened by the Hon'ble Chief Minister. In the above meeting the following decision have been arrived.

- (i) The MD, CAPE will furnish a detailed report on the assets and liabilities of the Government Medical College, Ernakulam within a week positively. After getting the details, the high level committee will evaluate it and take final decision on its take over.
- ii) After the takeover procedure is completed, the Government will arrange a discussion with the authorities of the District Co-operative Bank, Ernakulam regarding the settlement of the outstanding dues against the CAPE (Action Secretary

Co-operation)

iii) The dues outstanding to the contractor and the amount due to the KSMSCL will be paid proportionately by meeting the expenditure from the Administrative fund of the College with the concurrence of the Finance Department in Government, after keeping sufficient amount required for meeting the expenses to run the hospital for three months (Action Secretary , H & FWD)

2. I am of the view that this writ petition can be disposed of in the light of the decision in the meeting referred as above

3. The petitioner is a Contractor engaged by construction Corporation, the 4th respondent for constructing a building of Co-operative Medical College, Cochin. The College was taken over by the Government in 2014. This issue now pertains to the payment of dues to the Contractor. The 4th respondent who engaged the petitioner would submit that it is on account of the delay in disbursing

the amount by the CAPE, they are unable to release the amount to the petitioner. The 3rd respondent CAPE submits that since the assets and liabilities have been taken by the Government, they are unable to disburse the amount.

4. Considering the nature of dispute, this Court directed the Government to convene a meeting to thrash out the issue. Based on the decision of the meeting, it has been decided that arrears due to the Contractor will be paid proportionately by meeting the expenditure from the Administrative fund of the College with the concurrence of Finance Department of the Government.

5. In view of the above, there shall be a direction to the 2nd respondent and 3rd respondent to release necessary funds towards the Contractual dues to the 4th respondent within a period of two months from the date of receipt of a copy of this judgment. Thereafter, the 4th respondent shall pay the entire due to the petitioner without any delay. The

4th respondent shall release the retention amount and security deposit without any delay as per the contract. The question relating to the interest claimed by the petitioner is left open.

The writ petition is disposed of as above.

sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/