

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 21501 of 2015 (K)

PETITIONERS:

1. SUNNY CHENNIKKARA, AGED 44 YEARS,
S/O. ACHANKUNJU, CHENNIKKARA HOUSE,
MADAKKATHARA VILLAGE, KATTILAPPOOVAM P.O.,
THRISSUR 680 028 (EXECUTIVE SECRETARY,
ALL KERALA GOVERNMENT CONTRACTORS' ASSOCIATION
STATE COMMITTEE, VANROSS JUNCTION,
THIRUVANANTHAPURAM 695 001)
2. THOMAS SEBASTIAN, AGED 51 YEARS,
S/O. DEVASSYA, VELIYAKALAM HOUSE,
ITHITHANAM P.O., CHANGANASSERY-VIA,
KOTTAYAM DISTRICT (PRESIDENT, ALL KERALA
GOVERNMENT CONTRACTORS' ASSOCIATION,
KOTTAYAM DISTRICT COMMITTEE,
KODIMATHA P.O, KOTTAYAM).
3. ANIL K.KURIAN, AGED 43 YEARS, S/O. N.O KURIAKOSE,
CONTRACTOR, NECHIKKATT HOUSE,
PARAMPUZHA P.O., KOTTAYAM DISTRICT.
4. MATHEW JOSEPH, AGED 59 YEARS,
S/O. MATHAI OUSEPH, CONTRACTOR,
PATHANAMKUZHY HOUSE,
PERUMBALAKKAD P.O., KOTTAYAM DISTRICT.
5. AUGUSTINE THOMAS, AGED 63 YEARS,
S/O. THOMAS, CONTRACTOR, ALENCHERY HOUSE,
ATHIRAMPUZHA P.O., KOTTAYAM DISTRICT.

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

RESPONDENTS:

1. GOVERNMENT OF KERALA REPRESENTED BY
ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
2. SECRETARY TO GOVERNMENT
DEPARTMENT OF PUBLIC WORKS, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001

BY STATE ATTORNEY SRI. P. VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

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|-----------|---|
| EXT.P1 | TRUE COPY OF THE RELEVANT PROTION OF G.O(MS) NO 59/2013/PWD DATED 17-07-2013 ISSUED BY THE GOVERNMENT |
| EXT.P2 | TRUE COPY OF THE CIRCULAR NO 10434/C3/2014/PWD DATED 8-5-2014 ISSUED BY THE GOVERNMENT |
| EXT.P3 | TRUE COPY OF G.O(MS) NO 59/2015/PWD DATED 3-07-2015 ISSUED BY THE GOVERNMENT |
| EXT.P3(a) | TRUE COPY OF G.O(RT) NO 1341/13/PWD DATED 15-10-2013 ISSUED BY THE GOVERNMENT |
| EXT.P4 | TRUE COPY OF THE JUDGMENT DATED 16-12-2014 IN W.P(C) NO 22545/2014 OF THIS HON'BLE COURT |
| EXT.P5 | TRUE COPY OF THE REPRESENTATION DATED 10-07-2015 SUBMITTED BY THE PETITIONERS 1 TO 3 BEFORE THE RESPONDENTS |

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

ncd

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 21501 of 2015

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Dated this the 21st day of November, 2015

J U D G M E N T

The petitioners are licensed contractor. Petitioners 1 to 3 and 5 are 'A' class contractors, whereas the 4th petitioner is a 'C' class contractor. According to the petitioner a contractor with 'A' class licence, is entitled to participate in all the works in any, office, irrespective of PAC (Probable Amount of Contract), whereas the entitlement of a 'B' category contractor to participate in the works limited to the value of Rs.250 lakhs and the limit fixed for the 'C' category contractor is Rs.50 lakhs whereas that of the limit fixed to 'D' category contractor is Rs.6 lakhs.

2. Ext.P3 order was issued by the Government sanctioning one time maintenance of village road and other district road in the State. The petitioner approached this Court aggrieved by clause 2(1) of Ext.P3 Government order dated 3.7.2015 which reads as follows:

“2. (i) The works now proposed by the Public Works Department are small works having estimate cost of Rs.25 lakh and below. For effective contract management, easy monitoring and ensuring better quality control, the work shall be grouped under different contract package under each tendering authority to avoid

splitting of works in continuous chainage. The minimum contract value of each such contract package shall not be less than Rs.100 Lakh in any case.”

3. The petitioners submit that in view of the clause referred as above, C and D categories contractor will not be eligible to participate any work mentioned in Ext.P3.

4. The petitioners highlighted their grievances in Ext.P5 before the respondents. In the light of Ext.P5, there shall be a direction to the 2nd respondent to take appropriate decision on Ext.P5 within a period of one month from the date of receipt of the copy of this judgment after notice to any among the petitioners.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE