IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(C).No. 22254 of 2015 (F)

PETITIONER(S)/PETITIONER:

N.SUKUMARAN PANICKER AGED 52 YEARS
ADVOCATE, REKHA'S, KALLAMAM
PANNIYODE, TRIVANDRUM

BY ADV. SRI.M.R.SARIN

RESPONDENT(S)/RESPONDENTS:

1. CHIEF SECRETARY TO GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN 695001

2. SECRETARY PUBLIC WORKS DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANATHAPURAM 695001

3. SECRETARY
FINANCE, GOVERNMENT SECRTARIAT
THIRUVANTHAPURAM-695001

4. THE CHIEF ENGINEER(BUILDING)
PWD PUBLIC OFFICE, MUSERUM P O
THIRUVANANTHAPURAM-695002

5. SUPERINTENDING ENGINEER,
JUDICIAL CIRCLES, EDAPPALLY ERNAKULAM 682024

6. THE KERALA STATE CONSTRUCTION CORPORATION
REP BY SECRETARY, 30/1521-A, BAY UNDER THE BRIDGE
NORTHERN SIDE OF RAILWAY KOCHI 682019, PONNURUNNI
VYTTILA, ERNAKULAM , KERALA
682019

R6 BY ADV. SRI.M.V.THAMBAN, SC., KSCC LTD.
R1 TO R5 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 22254 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:-THE TRUE COPY OF THE REPRESENTATION FILED BY PETITIONER ON 26/6/2015 BEFORE THE IST RESPONDENT
P2:-THE TRUE COPY OF THE REPRESENTAITON FILED BY PETITIONER ON 26/6/2015 BEFORE THE 4TH RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J

W.P.(C).No. 22254 of 2015

Dated this the 18th August, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard learned counsel for the petitioner, learned Special Government Pleader and the learned counsel appearing for the sixth respondent.

2. By this Writ Petition the petitioner, who claims to be an advocate practising in Kattakada Bar Association, has prayed for the following reliefs:

> "i. *Issue a writ in the nature of mandamus or such other writ, direction or orders commanding the 1st and 4th respondents to consider Exhibit P1 and Exhibit P2 representations.*
>
> *ii. Issue a writ in the nature of mandamus or such other writ, direction or orders commanding the 1st respondent to do all necessary things to construct the Proposed Court Complex by the PWD directly.*

iii) Issue a writ in the nature of mandamus or such other writ, direction or orders commanding the 4th respondent to make negotiation with the 6th respondent and take necessary steps for construction of the proposed Court Complex.

iv) Issue any such other writ, direction or orders, which this Honourable Court may deem fit and proper considering the facts and circumstances of the case, in the interest of justice."

3. This Writ Petition has been filed as a public interest litigation. The petitioner's case is that the State Government has accepted that the Grama Panchayat had purchased 50 cents of land and handed over for construction of a Court Complex. The fourth respondent, i.e., Chief Engineer (Building), PWD has called for a tender for construction of the Court Complex twice worth ₹3.10 crores with 20% excess. The 6th respondent has initially accepted the tender, but subsequently decided not to undertake the work. In the Writ Petition it is stated that since no one

has come forward to accept the tender and carry on the work, the PWD was directed to undertake the construction of the Court Complex, which has not yet begun.

4. A statement has been filed on behalf of the fifth respondent, i.e., the Chief Engineer, Judicial Circles, Edappally, Ernakulam, where it has been stated that the revised architectural drawing is under preparation and will be finalised very soon. It has also been stated that the Department has decided to retender the work in the current schedule of rate. It is useful to refer to the following statement in paragraph 5 of the statement filed by the fifth respondent:

> *"5. It is submitted that the Exhibits P1 and P2 could not be considered as the mode of execution of work directly by PWD is not now possible since connected infrastructural facilities, both man power and machineries are not directly available with the department. Now the department has decided to retender the work in the current schedule of rate. Due to the site condition, the AR drawing is under revision and it is expected that the work can be rearranged within two months. It is respectfully*

submitted that there has not been any laxity on the part of the official respondents and the delay in completion of the proposed construction is only due to reasons stated above, which occasioned due to reasons beyond the control of the department."

In view of the fact as brought on record by the fifth respondent in the statement, we are of the view that no useful purpose will be served in keeping the Writ Petition pending. Accordingly, the Writ Petition is disposed of directing the fifth respondent to take early steps to retender the work and take all measures so that the work may start and complete within a reasonable time.

ASHOK BHUSHAN
CHIEF JUSTICE

A.M.SHAFFIQUE
JUDGE

vgs19/8/15