

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 31836 of 2008 (M)

PETITIONER:

**NAJEEB, TC 4/635, FATHIMAM,
SREEVILAS LANE, KOWDIAR.P.O,
THIRUVANANTHAPURAM.**

BY ADV. SRI.AJITH KRISHNAN

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE PRINCIPAL SECRETARY, FINANCE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. THE CHIEF ENGINEER, NATIONAL HIGHWAYS,
PUBLIC OFFICE, THIRUVANANTHAPURAM.**
- 4. THE EXECUTIVE ENGINEER,
NATIONAL HIGHWAY DIVISION, P W D,
THIRUVANANTHAPURAM.**

BY SENIOR GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF THE TENDER SCHEDULE NO.NHT-10/2007-08 ISSUED
BY THE 4TH RESPONDENT.

EXT. P2 : TRUE COPY OF THE REPRESENTATION DATED 20.9.2008 SUBMITTED
BY PETITIONER BEFORE THE RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 31836 of 2008

Dated this the 15th day of September, 2015

J U D G M E N T

The petitioner is a PWD contractor. He undertook the restoration works in connection with JBIC Assisted Kerala Water Supply Project - laying 350 mm D.I. pipe along Kaimanam - Thiruvallam Road Between Ch. 1/450 and 3/350. The petitioner alleges that the work was completed within the stipulated time and the total bill amount due to the petitioner is ₹10,43,868/-. The petitioner's grievance is that though he submitted Ext.P2 representation dated 20.09.2008 before the respondents, no action was taken on the same. Hence, this writ petition.

2. In the counter affidavit filed by the respondents, they have contended that CC first and part bill was submitted to the Division Office on 07.10.2008 and the payment was made on receipt of Special Letter of Credit

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from the Government dated 01.01.2009. The work was actually completed on 30.10.2008 as per records. During site inspection, certain damages to Built Up Spray Grout (BUSG) were noticed and the contractor was directed to rectify the damages. However, the same were not carried out till date. It was contended that the balance amount would be released only after the completion of the rectification work. Therefore, they prayed for a dismissal of the writ petition.

3. Arguments have been heard.

4. The learned counsel for the petitioner would submit that the payment was delayed only for the reason that the petitioner has failed to rectify the defects pointed out by the respondents. However, it is submitted that the defects have been rectified and there is no justification in withholding payment.

In the light of the above, the respondents shall verify whether the defects have been cured; and on being satisfied with the work of the petitioner, the amount shall

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be released to the petitioner within a period of two months from the date of receipt of a copy of this judgment, failing which the respondents shall pay interest at the rate of 10% per annum from the date, on which the payment became due till the date of payment.

The writ petition is disposed of as above.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-