

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 29144 of 2015 (P)

PETITIONER :

**ROY MATHEW
GOVERNMENT CONTRACTOR, PAMPLANIYIL HOUSE
BHARANANGANAM P.O., PALA VIA., KOTTAYAM DISTRICT.**

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

RESPONDENT(S) :

- 1. GOVERNMENT OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF RURAL DEVELOPMENT
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. STANDING EMPOWERED COMMITTEE FOR THE WORK UNDER THE PMGSY,
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT OF KERALA, SECRETARIAT ANNEX
THIRUVANANTHAPURAM-695 001
REPRESENTED BY ITS MEMBER SECRETARY AND CHAIRMAN.**
- 3. SUPERINTENDING ENGINEER
KERALA STATE RURAL ROADS DEVELOPMENT AGENCY (KSRRDA)
TC 28/885 , CSI BUILDING, PULIMOOD, THIRUVANANTHAPURAM-695 001.**

BY GOVT. PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 :** TRUE COPY OF THE ORDER NO.DB5/531/2015/CELSGD DT 20-1-2015
ISSUED BY THE 2ND RESPONDENT.
- EXT. P2 :** TRUE COPY OF THE RELEVANT PORTION OF CLAUSE 44.1 OF THE
STANDARD BIDDING DOCUMENT FOR PMGSY.
- EXT. P3 :** TRUE COPY OF THE ORDER NO.ENG (DB3)-960/2009/KSRRDA
DT. 10-6-2015 ISSUED BY THE 3RD RESPONDENT.
- EXT. P4 :** TRUE COPY OF THE REPRESENTATION DT. 23-6-2015 SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P5 :** TRUE COPY OF THE REPRESENTATION DT. 16-8-2015 SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.29144/2015**  
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Dated this the 9th Day of December, 2015

J U D G M E N T

The petitioner has undertaken a road construction work. He has approached this Court aggrieved by the conditions imposed in Exhibit P3 while extending the time to complete the work. According to the petitioner, the conditions in Exhibit P3 are repugnant to the proceedings of the Standing Empowered Committee for the work produced as Exhibit P1.

2. The conditions imposed in Exhibit P3 are as follows:

- The petitioner shall claim no enhanced rate of compensation.
- Imposition of liquidated damages at the rate of 10% for the remaining work to be completed inclusive of the work completed.

3. This Court is of the view that in the light of Exhibit P1 proceedings, the imposition of conditions is untenable and unsustainable. Therefore, the above conditions in Exhibit P3 are set aside. The petitioner shall execute a supplemental agreement to complete the work, subject to the right of the

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petitioner to challenge it in accordance with Exhibit P1 for further enhancement before the Government.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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