

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 29435 of 2015 (D)

PETITIONER :

**T. RAJAN
S/O. LATE C. VASUDEVAN NAIR,
AGED 59 YEARS, PROPRIETOR
G.G.A. SECURITY PERSONAL SERVICE, A & A COMPLEX
KUNNATHURMEDU, PALAKKAD-678 013.**

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT(S) :

- 1. COLLEGE OF ENGINEERING, MUNNAR
COUNTY HILLS, P.B. NO. 45, MUNNAR
BY ITS PRINCIPAL, MUNNAR-685 612.**
- 2. ADMINISTRATIVE OFFICER,
COLLEE OF ENGINEERING MUNNAR,
COUNTY HILLS, PB NO. 45
MUNNAR-685 612.**
- 3. DIRECTOR
CENTRE FOR CONTINUING EDUCATION, KERALA, ANATHARA LANE
CHARACHIRA, COWADIAR POST, THIRUVANANTHAPURAM-3.**

**R1 & R2 BY SENIOR ADVOCATE SRI.K.ANAND
BY ADV. SMT.LATHA ANAND
R3 BY GOVT. PLEADER SMT. C.K. SHERIN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 29435 of 2015 (D)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1: TRUE COPY OF THE TENDER NOTICE INCLUDING THE CONDITIONS
 OF CONTRACT AND SCHEDULE FOR PROVIDING SECURITY GUARDS
 AND SUBMITTED TO THE 1ST RESPONDENT.**
- EXT.P2: TRUE COPY OF THE LETTER OF ACCEPTANCE DT. 31/7/15 ISSUED TO
 THE PETITIONER BY THE 1ST RESPONDENT.**
- EXT.P3: TRUE COPY OF THE AGREEMENT DT. 30/8/15 ENTERED BETWEEN THE
 1ST RESPONDENT AND PETITIONER.**
- EXT.P4: TRUE COPY OF THE LETTER DT. 10/9/15 ISSUED BY THE 1ST
 RESPONDENT TO THE PETITIONER.**
- EXT.P5: COPY OF THE LETTER DATED 8-12-2015 ISSUED TO THE PETITIONER
 BY THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No. 29435 of 2015

=====

Dated this the 21st day of December, 2015

J U D G M E N T

The writ petitioner has been awarded with a contract for providing security guards for the first respondent college. This has been terminated by Ext.P4. The petitioner challenges this. This Court had initially granted an interim order but interim order happened to be expired during the pendency of this writ petition.

2. The ground of challenge is that the decision of the college authority to terminate the contract is illegal in as much as there are no reasons have been stated except the reason that the performance is not satisfactory. Thereafter by noting the expiry of the stay, Ext.P5 was also issued directing the petitioner to withdraw all security persons deployed in the institution with effect from 18.12.2015.

3. The respondent filed a counter it is stated that earlier

they had awarded a contract to another contractor and after finding that their service are not satisfactory, the contract has been terminated. Thereafter the contract has been awarded to the petitioner on the premise that service will be improved. However it was found that the same persons who were employed by earlier contractor have been employed by the petitioner. It is stated that the petitioner's service is not satisfactory.

4. The public law remedy available to him is very limited extent to examine the decision making process under 226 of the Constitution to find out any arbitrariness in the decision. Though termination may not be some time valid in terms of the contract, however it is not necessary it should fall within the ambit of arbitrariness under article 14 to invoke public law remedy. The Contract even entered by the State or any other State authority also has to be treated in parameters of private contract. Any breach thereon would not entail in a public law remedy for the aggrieved to seek redressal of the same. As far as the respondent is concerned, the petitioner's service is not satisfactory, therefore they have terminated the Contract. This

court for the purpose of deciding the arbitrariness of the State action would be justified in relying upon the action of the respondent, thought it may not sometimes justifiable in terms of the contract. The breach of contract gives a cause of action to file a civil suit. Every breach of contract need not be interfered by the High Court in a public law remedy.

5. In the contract for providing personnel services there is an element of subjective satisfaction to the awarder of the contract as to the performance. In that view of the matter, this Court may not be able to sit up on the wisdom of the awarder to decide otherwise in such situation. Therefore, this Court would not be justified in interfering with the termination of the contract. However certainly the petitioner is at liberty to approach the civil court for any breach of the contract.

With the above liberty, the writ petition is disposed of.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE