

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 31413 of 2014 (B)

PETITIONER(S):

**A.B.MOHAMMED ASHRAF, AGED 43 YEARS,
S/O. LATE ABOOBACKER B.M., CONTRACTOR, B.M.A HOUSE,
TAJ NAGAR, VIDYANAGAR P.O.,
KASARAGOD DISTRICT - 671 123.**

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

RESPONDENT(S):

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF WATER RESOURCES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE SUPERINTENDING ENGINEER,
MECHANICAL CIRCLE, IRRIGATION DEPARTMENT,
CIVIL STATION, KAKKANAD, ERNAKULAM - 682 030.**
- 3. THE EXECUTIVE ENGINEER,
KPIP DIVISION NO.I, IRRIGATION DEPARTMENT,
KANJIRAPUZHA, MANNARKKAD, PALAKKAD - 678 591.**
- 4. THE EXECUTIVE ENGINEER,
IRRIGATION, MECHANICAL DIVISION, MALAMPUZHA,
PALAKKAD - 678 651.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE PHOTOCOPY OF THE CONTRACTOR'S LINCENSE OF THE PETITIONER
VALID UP TO 31.3.13.
- EXT.P2 - TRUE PHTOCOPY OF THE PARTNERSHIP DEED DT. 17.4.10 ENTERED
BETWEEN MR.V.MASHRAF AND THE PETITIONER AND 2 OTHERS.
- EXT.P3 - TRUE PHOTOCOPY OF THE JOINT VENTURE AGREEMENT DT. 21.10.10,
EXECUTED BETWEEN MR.V.MASHRAF AND THE PETITIONER.
- EXT.P4 - TRUE COPY OF THE DETAILS OF WORKS, EXECUTED IN PURSUANCE TO
EXT. P3 JOINT VENTURE AGREEMENT BY THE PETITIONER AND
SRI.V.MASHRAF.
- EXT.P5 - TRUE PHOTOCOPY OF THE 'FORM A' ISSUED BY THE REGISTRAR OF FIRMS
DT. 13.10.2010, PERTAINING TO THE REGISTRATION OF FIRM NAMELY
M/S. AMPLE CONSTRUCTION AND BUILDERS.
- EXT.P6 - TRUE COPY OF PAN CARD BEARING NO. AAR-A6090 K DT. 17.4.10 ISSUED
BY THE INCOME TAX DEPARTMENT TO M/S. AMPLE CONSTRUCTION AND
BUILDERS.
- EXT.P7 - TRUE COPY OF LETTER DT. 20.12.10 SUBMITTED BY MR.V.M.ASHRAF, THE
PARTNER OF THE PETITIONER IN EXT.P2 PARTNERSHIP DEED BEFORE THE
4TH RESPONDENT.
- EXT.P7(A) - TRUE PHOTOCOPY OF THE 'FORM NO. 16A', ISSUED BY THE
4TH RESPONDENT.
- EXT.P8 - TRUE COPY OF THE REQUEST DT. 04.8.2012 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P8(A) - TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGMENT RETURNED TO
THE PETITIONER, EVIDENCING THE SERVICE OF EXT.P8 TO THE
2ND RESPONDENT.
- EXT.P8(B)- TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGMENT RETURNED TO
THE PETITIONER, EVIDENCING THE SERVICE OF EXT.P8 TO THE
4TH RESPONDENT.
- EXT.P9 - TRUE COPY OF THE REPRESENTATION DT. 4.8.2012 SUBMITTED BY THE
PETITIONER BEFORE THE RESPONDENTS 2 TO 4.
- EXT.P10 - TRUE COPY OF ORDER NO. D1-1146/2014 DT 31.10.14 ISSUED BY THE
2ND RESPONDENT.
- EXT.P11- TRUE COPY OF THE REPRESENTATION DT. 14.11.14 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

Msv/

WP(C).No. 31413 of 2014 (B)

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 31413 of 2014

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Dated, this the 7th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- i. Issue a writ of certiorari or any other appropriate writ, order or direction quashing Ext. P10 proceeding of the 2nd respondent;
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to issue experience certificate for the 4 works executed by the petitioner and Mr. V.M. Ashraf, detailed in Ext. P4, in pursuance of Ext. P2 partnership deed and Ext. P3 joint venture agreement forthwith.
- iii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to consider and dispose of Ext. P11 representation, forthwith;
- iv. Issue such other writ, order or direction which may deem fit in the facts and circumstances of the case.

2. The learned counsel for the petitioner submits that the petitioner is an 'A Class' contractor having undertaken various works

of very high magnitude. In connection with further course of action, the petitioner sought to have an experience certificate to be issued. Accordingly the second respondent was approached to issue such a certificate. Since the said request have not acted upon, the petitioner approached this Court by filing W.P.(C) No. 22197 of 2014, which was disposed of, as per Ext. P9(a) judgment, directing the matter to be considered and finalized as specified therein.

3. Pursuant to the said direction, though the application was considered, request was turned down as per Ext. P10 order dated 31.10.2014, observing that the petitioner was not eligible to have the certificate for the reasons stated therein. Met with the situation, petitioner approached the first respondent by filing Ext. P11 representation. The learned counsel for the petitioner submits that the only prayer now pressed before this Court is to cause Ext.P11 to be considered by the first respondent within a reasonable time.

4. Heard the learned Government Pleader as well.

5. Considering the limited extent of relief sought for, this Court does not find it necessary to deal with the merits of the case. The writ petition is disposed of, directing the first respondent to

W.P.(C) No. 31413 OF 2014

: 3 :

consider and pass appropriate orders on Ext. P11 representation in accordance with law, after giving an opportunity of hearing to the petitioner, at the earliest, at any rate, within 3 months from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the first respondent for further steps.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd