

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 32896 of 2014 (J)

PETITIONER :

**M/S.ABM4 BUILDERS, AGED 52 YEARS
NP-11/908, HOSPITAL ROAD, NILAMBUR
MALAPPURAM DISTRICT, PIN-679329
REPRESENTED BY ITS MANAGING PARTNER
V.P.MOHAMMED AYUB.**

**BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, 695001.**
- 2. THE SUPERINTENDING ENGINEER
ROADS & BRIDGES NORTH CIRCLE,
PWD COMPLEX, MANANCHIRA
KOZHIKODE-673001.**
- 3. THE EXECUTIVE ENGINEER
PWD ROADS DIVISION, MANJERI-676121.**

R1 BY GOVERNMENT PLEADER SRI.P.K.ABDUL RAHMAN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 32896 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 :** **A TRUE COPY OF THE SELECTION ORDER NO. DC5/3468/2012
DATED 14-11-2014 OF THE 2ND RESPONDENT.**
- EXHIBIT P2 :** **A TRUE COPY OF THE REPRESENTATION DAED 24-11-2014
SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- EXHIBIT P3 :** **A TRUE COPY OF THE REPLY DATED 26-11-2014 OF THE 2ND
RESPONDENT.**
- EXHIBIT P4 :** **A TRUE COPY OF THE CERTIFICATE DATED 28-11-2014 ISSUED
BY THE 3RD RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.HARILAL, J

W.P.C.No.32896 of 2014

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner is a Government Contractor, who has undertaken large number of contract work for State PWD. According to him Rs.3,94,44,215/- is due to him under pending bills from the first respondent. The petitioner has undertaken all those works covered under Ext.P4, by availing huge amounts from various financial institutions by way of loan on interest. Now a new work had been awarded to the petitioner and as per Ext.P1, the petitioner is directed to execute the agreement for the same and also directed to make a security deposit of Rs.71,98,600/- including Treasury deposit of Rs.17,99,700/-. According to the petitioner, he is not in a position to raise such a huge amount, due to the financial constrain caused by the pendency of payments from the first respondent. In the above circumstances, the petitioner requested the first respondent to treat one of the pending bills towards the amount directed to be

deposited under Ext.P1. However, the respondents were not willing to accept the said request. This is the issue projected in this writ petition.

2. The learned Counsel for the petitioner submits that, the matter in issue involved in this writ petition is covered by the decision of this court passed in OP No.1943/2003 and the said decision was followed in WPC.No.2485/2015. Going by the said judgment, it could be seen that this court had already considered this issue and allowed the prayer as such as prayed for in this writ petition. In the judgment in OP No.1943/2003, this court held as follows.

“This O.P. is filed for a direction to the second respondent to adjust the amounts due to the petitioner for completed works towards security deposit for new work being awarded. The second respondent is directed to make arrangement for adjustment of so much of the amount from amounts due to the petitioner towards security deposit and ensure that the amount transferred to security deposit account is not withdrawn by the petitioner except in accordance with the terms of the new contract. Time for execution of the agreement is extended by two weeks.”

3. The learned Government Pleader also submits that, the matter in issue involved in this writ petition is covered by the decision of this court in OP No.1943/2003, which was further followed in WPC.No.2485/2015.

4. In the above view, I am of the opinion that the relief sought for in this writ petition can also be allowed in view of judicial precedents. The respondents are directed to adjust the amount directed to be paid by the petitioner under Ext.P1 as security including Treasury deposit from the amount due to the petitioner under Ext.P3. The petitioner shall produce copy of this judgment, along with the copy of the writ petition before the concerned respondents for further settlements.

The writ petition is disposed of accordingly.

Sd/-
K.HARILAL
JUDGE

VS