

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 32809 of 2015 (A)

PETITIONER :

**P.T XAVIER
S/O.THOMAS, AGED 49
PUTHENTHARA HOUSE, THALAYAZHAM P.O.
VAIKOM, KOTTAYAM DISTRICT, PIN-686 607.**

BY ADV. SRI.SHAJI THANKAPPAN

RESPONDENT(S) :

- 1. THE SUPERINTENDING ENGINEER
KUTTANAD DEVELOPMENT CIRCLE, CHENGANNUR
ALAPPUZHA DISTRICT, PIN-689121.**
- 2. THE ASSISTANT ENGINEER
MITIGATION INSPECTION SECTION
KUTTANAD (M.I.SECTION), PULINKUNNU,
ALAPPUZHA DISTRICT, PIN-688504.**
- 3. STATE OF KERALA
REPRESENTED BY SECRETARY TO IRRIGATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.**

R1 TO R3 BY GOVT. PLEADER SMT. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 : TRUE PHOTOCOPY OF THE AGREEMENT EXECUTED BY THE PETITIONER WITH THE 1ST RESPONDENT ON 16-10-2014.
- EXT.P2 : TRUE PHOTOCOPY OF THE LETTER DATED 29-5-15 OF THE 1ST RESPONDENT.
- EXT.P3 : TRUE PHOTOCOPY OF THE LETTER DT. 23-6-2015 OF THE 1ST RESPONDENT.
- EXT.P4 : PHOTOGRAPHS SHOWING SOME OF THE GRANITES COLLECTED BY THE PETITIONER.
- EXT.P5 : TRUE PHOTOCOPY OF THE LETTER DT.15-7-2015 ISSUED BY THE 2ND RESPONDENT.
- EXT.P6 : TRUE PHOTOCOPY OF THE REQUEST SUBMITTED BY THE PETITIONER ON 23-7-2015.
- EXT.P7 : TRUE PHOTOCOPY OF THE LETTER DT.19-8-2015 ISSUED BY THE 1ST RESPONDENT.
- EXT.P8 : TRUE PHOTOCOPY OF THE ORDER DT.19-8-2015 ISSUED BY THE 1ST RESPONDENT.
- EXT.P9 : TRUE PHOTOCOPY OF THE LETTER SUBMITTED BY THE PETITIONER ON 3-9-2015.
- EXT.P10 : TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ON 19-9-2015.
- EXT.P11 : TRUE PHOTOCOPY OF THE ACKNOWLEDGMENT CARD ACCEPTING EXT.P10.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.32809 of 2015

Dated this the 30th day of October, 2015

JUDGMENT

The petitioner is a registered contractor of the Public Works Department. The petitioner has been awarded with a contract in relation to the work of Kuttanad Package-Flood Management Programme. This work was awarded as per the agreement dated 16.10.2014. The work has been terminated at the risks and costs of the petitioner as per Ext.P8. It is to be noted that for the progress of the work in spite of lapse of 10 months is zero percent. The petitioner challenges Ext.P8.

2. This Court directed the learned counsel for the petitioner to ascertain whether the petitioner is prepared to undertake the work. The petitioner submits that he is prepared to undertake the work and he may be given 250 days to complete the work. He also submitted that he has already deposited granites for the work.

3. The learned Government Pleader opposes the prayer of the petitioner and submits that the respondents are proposed to retender the work.

This Court is of the view that in order to avoid further loss to the exchequer and also avoid further complications in the matter, the petitioner should be given an opportunity. Therefore, following directions are issued:

- i. The petitioner is given four months time to complete the work from 11.11.2015.
- ii. The petitioner shall execute a supplemental agreement with the first respondent on or before 9.11.2015.
- iii. The petitioner shall appear before the first respondent for executing the supplemental agreement on 9.11.2015.
- iv. It is open for the first respondent to extend the time if the first respondent feels that the petitioner has complied substantial work during the four months period as per the terms and conditions.
- v. If the petitioner fails to honour any of the conditions, the first respondent is free to terminate the work at the risk and costs of the petitioner.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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