

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 33362 of 2015 (U)

PETITIONER(S):

**N.VELAYUDHAN NAIR,
CONTRACTOR, LAKSHMI NIVAS, CHENKAL P.O.,
THIRUVANANTHAPURAM DIST. - 695 132.**

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

RESPONDENT(S):

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF PUBLIC WORKS, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. CHIEF ENGINEER,
PUBLIC DEPARTMENT, THIRUVANANTHAPURAM-695 033.**
- 3. SUPERINTENDING ENGINEER,
PWD (ROADS & BRIDGES), SOUTH CIRCLE,
THIRUVANANTHAPURAM-695 033.**
- 4. EXECUTIVE ENGINEER,
PWD (ROADS DIVISION), THIRUVANANTHAPURAM-695 033.**
- 5. ASSISTANT EXECUTIVE ENGINEER,
PWD (ROADS SUB DIVISION), NEYYATTINKARA,
THIRUVANANTHAPURAM-695 124.**

**BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF SELECTION NOTICE DT. 18/9/12 ISSUED BY THE
3RD RESPONDENT**

EXT.P2: TRUE COPY OF THE LETTER DT. 5/10/12 ISSUED BY THE 3RD RESPONDENT

**EXT.P3: TRUE COPY OF THE REPRESENTATION DT. 13/12/12 FILED BY
MR. M. VARGHESE NADAR AND OTHERS BEFORE THE HON'BLE MINISTER
FOR PWD**

**EXT.P4: TRUE COPY OF MINUTES OF THE MEETING DT. 19/4/13 SIGNED BY THE RDO,
THIRUVANANTHAPURAM, AS PER THE PROCEEDING DT. 4/5/13**

**EXT.P4(A): TRUE COPY OF LETTER DT. 19/4/13 ISSUED BY THE PRINCIPAL
SECRETARY, DEPARTMENT OF HOME AFFAIRS**

**EXT.P5: TRUE COPY OF LETTER DT. 6/8/13 ISSUED BY THE SPECIAL SECRETARY TO
GOVERNMENT, DEPARTMENT OF HOME AFFAIRS**

**EXT.P6: TRUE COPY OF MINUTES OF THE MEETING D.T 21/5/13 HELD AT THE
COLLECTORATE, THIRUVANANTHAPURAM**

**EXT.P6(A): TRUE COPY OF THE PROCEEDING OF THE 4H RESPONDENT BEARING
NO. D3.1290/12 DT. 24/5/13, ADDRESSED TO THE TERRITORY MANAGER,
BHARATH PETROLEUM CORPORATION LTD, AMBALAMUGHA, KOCHI**

EXT.P7: TRUE COPY OF LETTER DT. 30/5/13 ISSUED BY THE 5TH RESPONDENT

**EXT.P8: TRUE COPY OF THE ORDER DT. 31/5/13 IN IA 2400/13 IN OS NO. 380/13 OF
THE LEARNED ADDL. MUNSIF COURT - I, NEYYATTINKARA**

**EXT.P9: TRUE COPY OF THE REPRESENTATION DT. 10/9/13 SUBMITTED BY THE
PETITIONER BEFORE THE RESPONDENTS 2-5**

**EXT.P9(A): TRUE COPY OF THE REPRESENTATION DT. 18/12/13 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.**

EXT.P9(B): TRUE COPY OF THE ORDER DT. 30/11/13 OF THE 3RD RESPONDENT

EXT.P9(C): TRUE COPY OF THE PROFORMA ATTACHED ALONG WITH EXT.P9(B)

**EXT.P10: TRUE COPY OF THE LETTER DT. 31/10/13 FORWARDED BY THE
5TH RESPONDENT TO THE OFFICE OF THE 4TH RESPONDENT**

**EXT.P11: TRUE COPY OF THE LETTER DT. 31/10/13 ISSUED BY THE ASSISTANT
ENGINEER, PWD ROADS, SECTION, PARASSALA**

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**EXT.P12: TRUE COPY OF THE LETTER DT. 19/11/13 ISSUED BY THE
4TH RESPONDENT**

**EXT.P13: TRUE COPY OF THE REPRESENTATION DT. 18/12/13 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT**

**EXT.P13(A): TRUE COPY OF THE LETTER NO. D2-328/12 DT. 31/12/13 FORWARDED BY
THE 5TH RESPONDENT TO THE 4TH RESPONDENT**

**EXT.P14: TRUE COPY OF THE REPRESENTATION DT. 9/7/14 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT**

**EXT.P14(A): TRUE COPY OF THE JUDGMENT DT. 30/10/14 IN WPC 28442/14 OF THIS
HON'BLE COURT**

EXT.P15: TRUE COPY OF THE ORDER DT. 30/5/15 ISSUED BY THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS:

EXT.R4(a): COPY OF RELEVANT PAGES OF 'M' BOOK.

EXT.R4(b): THE COPY OF THE SUPPLEMENT AGREEMENT DTD.24.6.2013.

EXT.R4(c): THE COPY OF THE SUPPLEMENT AGREEMENT DTD.30.11.2013.

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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W.P(C)No.33362 of 2015

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Dated this the 14th day of December, 2015

JUDGMENT

Petitioner, a contractor was awarded with works of effecting improvement to Vlathankara – Avanakkinvila Road. Selection notice is dated 18.09.2012.

2. The final bill of the petitioner was settled on 20.08.2013. It is to be noted that the time was extended twice. This was on account of existence of communal riot in the said area. It is stated that certain portion was exempted from completion. The petitioner approached the Government by Ext.P14 for enhanced rate. After considering the direction of this Court in W.P.(C) No. 28442/2014, the Government rejected the claim of the petitioner vide Ext.P15. It is challenging Ext.P15 petitioner approaches this Court.

3. Government noted that the petitioner is not entitled for enhanced rate. Government also assigned reasons for not acceding with the petitioner's request.

4. It is to be noted, when extensions were given twice, the petitioner did not raise any claim for the enhanced rate. After having accepted the extension, on whatever ground, without any demur, it is not open for the petitioner to claim enhanced rate. Government also have given reasons for rejecting petitioner's claim for enhanced rate.

5. In that view of the matter, I do not find any infirmity in the order passed by the Government.

The writ petition is dismissed. No costs.

Sd/-
A.MUHAMED MUSTAQUE,
JUDGE