

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 33888 of 2015 (I)

PETITIONER(S):

**COCHIN BRIDGE INFRASTRUCTURE COMPANY LTD.,
HAVING ITS REGISTERED OFFICE AT GAMMON HOUSE,
VEER SAVRAKAR MARG, PRABHADEVI MUMBAI-400 025,
THROUGH MR. KULDEEP DARYANI, AUTHORIZED SIGNATORY.**

**BY ADVS.SRI.SAURABH S SINHA (SR.)
SRI.SHIVSHANKAR R.PANICKER
SRI.THOMAS P.KURUVILLA
SRI.SUBRAMANIAN PRASAD (SR.)**

RESPONDENT(S):

- 1. GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
KADAVANTHARA, COCHIN-20.**
- 2. THE SECRETARY,
GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
OFFICE OF THE GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
KADAVANTHARA, COCHIN-20.**
- 3. THE CHAIRMAN,
GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
OFFICE OF THE GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA),
KADAVANTHARA, COCHIN-20.**
- 4. GOVERNMENT OF KERALA,
THROUGH SECRETARY, LOCAL SELF GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 5. GOVERNMENT OF KERALA,
THROUGH CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 6. GOVERNMENT OF KERALA,
THROUGH ADDL. SECRETARY (FINANCE), SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**R1-R3 BY ADV. SRI.C.A.MAJEED, SC
R4-R6 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
SENIOR GOVERNMENT PLEADER SRI.T.P.SAJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- TRUE COPY OF THE BOARD RESOLUTION IN FAVOUR OF THE
AUTHORIZED REPRESENTATIVE.**

EXHIBIT P2- A COPY OF FEE NOTIFICATION DATED 15-9-2001.

EXHIBIT P3- COPY OF THE TOLL NOTIFICATIONS DATED 03-10-2002.

EXHIBIT P4- COPY OF THE TOLL NOTIFICATION.

EXHIBIT P5- A COPY OF LETTER OF GOVERNMENT OF KERALA DATED 7-10-2001.

EXHIBIT P6- A COPY OF LETTER OF GOVERNMENT OF KERALA DATED 15-10-2003.

**EXHIBIT P7- A COPY OF THE LETTER OF GOVERNMENT OF KERALA
DATED 11-11-2003.**

**EXHIBIT P8- A COPY OF ORDER OF GOVERNMENT OF KERALA BEING GO(MS)
NO. 11/2005/PWD DATED 24-1-2005.**

EXHIBIT P9- A COPY OF THE ORDER OF GOVERNMENT OF KERALA DATED 1-3-2005.

**EXHIBIT P10- COPIES OF LETTERS DATED 12-05-2005, 28-06-2005, 03-09-2005,
13-10-2005, 02-06-2006, 04-09-2006, 06-11-2006, 28-02-2007, 23-01-2007,
14-07-2007.**

EXHIBIT P11- A COPY OF THE MINUTES OF MEETING DATED 15-12-2005.

EXHIBIT P12- TRUE COPY OF THE MINUTES OF MEETING DATED 18-4-2007.

**EXHIBIT P13- A COPY OF THE LETTER DATED 14-7-2007 WRITTEN BY THE
PETITIONER.**

EXHIBIT P14- A COPY OF THE MINUTES OF MEETING DATED 24-9-2008.

**EXHIBIT P15- A COPY OF THE LETTER DATED 10-10-2008 WRITTEN BY THE
PETITIONER.**

**EXHIBIT P16- A COPY OF THE LETTER DATED 11-12-2008 WRITTEN BY THE
PETITIONER.**

EXHIBIT P17- A COPY OF ORDER BEING GO(MS)NO. 53/2008/PWD DATED 26-12-2008.

**EXHIBIT P18- A COPY OF THE LETTER DATED 26-3-2013 WRITTEN BY THE
PETITIONER.**

**EXHIBIT P19- A COPY OF THE MINUTES OF THE ARBITRATION PROCEEDINGS
DATED 21-6-2013.**

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EXHIBIT P20- A COPY OF THE MINUTES OF MEETING DATED 13-1-2014.

EXHIBIT P21- A COPY OF ORDER DATED 29-04-2014 IN OP(CIV)NO.1111/2014 PASSED
BY THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.Muhamed Mustaque, J.

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W.P.(C) No.33888 of 2015

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Dated this the 15th day of December, 2015.

JUDGMENT

1. This writ petition is filed on account of the delay in culminating the final decision pursuant to Ext.P20 proceedings. The issue is relating to the loss suffered by the petitioner for operating the bridge at Mattacherry on BOT basis. As per Ext.P20 proceedings, petitioner claims for a loss of Rupees fifty five crores was settled for Rupees thirty crores, subject to the approval and decision of the Government.
2. Learned counsel for the petitioner submits that, since no decision has yet been taken even after a lapse of almost two years, they are not able to proceed with the arbitration proceedings.
3. In the statement filed by the 5th respondent, it is stated as follows:

“As the matter involve huge amount, a policy decision in the matter is required. The Local Self Government

Department, accordingly has requested Public Works Department to place the matter in the Council of Ministers with a permission of Minister, Public Works Department and Chief Minister for taking a final decision. When the matter was referred to the Council of Ministers, it was decided to place the matter after incorporating the remarks of Urban Affairs and Finance Ministers. Accordingly, the matter was forwarded to Finance Department for concurrence/perusal. Finance Inspection Wing conducted a detailed inspection on the accounts of Greater Cochin Development Authority for verification and ascertaining the actual receipts by concessionaire to see whether the offer for settlement is reasonable. The opinion of Law Department was also obtained.

The Law Department and Finance Inspection Wing pointed out that serious negligence and laches has been happened from the part of the Greater Cochin Development Authority in the matter and all opined that as Government has decided to settle the issue outside court, Government may take appropriate decision in the matter.

Accordingly, the matter is under consideration of Government. As the matter involves disbursement of huge amount, decision of the Council of Ministers is

required. Matter is now pending before the Government.”

4. Learned Government Pleader submits that they need at least six months' time for taking appropriate decision in the matter.
5. Learned counsel for the petitioner submits that the Government has to take a definite stand with regard to Ext.P20.
6. This court is of the view that the Government shall take a decision in the matter within a period of three months from today based on Ext.P20. If no decision is taken within three months, it shall be deemed that the settlement proposal has been waived by the Government and petitioner is free to proceed, in accordance with law, for recovery of any loss sustained by him.

Writ petition is disposed of as above.

Muhamed Mustaque, Judge.

sl.