

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.5530 of 2015

R.Ramarao

.. Petitioner

Versus

1.The Superintending Engineer (C&M)
Highways, Chennai Circle,
Anna Salai, Chennai-6.

2.The Divisional Engineer (C&M),
Highways, Thiruvallur Division,
Thiruvallur.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or order of direction in the nature of a writ directing the respondents to pay the interest at the time of making final bill for the retained amount of Rs.2,16,00,000/- due to lack of funds from 21.01.2014 to 28.05.2014 at the rate of 15% for the tender executed by the petitioner for widening, construction of storm water drain and improvements works in Ambattur (H) C&M Sub Division Jurisdiction as per the acceptance of tender in letter No.TRP.No.69/2013-2014(vol.29)/D1 dated 30.10.2013 on the file of the 1st respondent

For Petitioner : Mr.S.Doraisamy

For Respondents: Mr.R.Vijayakumar
[AGP for R1 & R2]

ORDER

Heard Mr.S.Doraisamy, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice on behalf of the respondents and with the consent of the learned counsel on either side, the writ petition itself is disposed of.

2.The petitioner who is the registered Class-I Contractor of the respondent department has filed this Writ Petition to direct the respondents to pay interest at the time of settling the Final Bill for the retained amount of Rs.2,16,00,000/- due to lack of funds from

21.01.2014 to 28.05.2014 at the rate of 15% in respect of tenders/works, executed by the petitioner, which were entrusted to him vide order dated 30.10.2013.

3.It is submitted by the learned counsel for the petitioner that the amount payable to the petitioner is not in dispute and the only reason for the delay is on account of the lack of funds. Therefore, it is submitted that the petitioner is justified in claiming interest at Bank rate on the withheld amount. Further, it is submitted that this claim of interest is not covered under the agreement between the petitioner and respondent department and therefore the petitioner need not resort to arbitration, which is provided under the agreement. In this regard, it is seen that a representation has been given to the 1st respondent on 14.03.2014. However there is no acknowledgment produced before this court that the 1st respondent has received the said representation.

4. In the light of the above, there will be a direction to the petitioner to submit a fresh representation along with a copy of this order, including a copy of the earlier representation sent to the 1st respondent and on receipt of the said representation, the first respondent is directed to consider the same within a period of three months from the date of receipt of the representation along with a copy of this order.

The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rg/ds

To

1.The Superintending Engineer (C&M)
Highways, Chennai Circle,
Anna Salai, Chennai-6.

2.The Divisional Engineer (C&M),
Highways, Thiruvallur Division,
Thiruvallur.

+ 1 cc to the Government Pleader Sr.11871

+ 1 cc to Mr.S.Doraisamy, Advocate SR.12111

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RJ(CO)

Eu 11.03.2015