

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.28469/2016

Mrs.R.Shenbagavalli
rep. by her Power Agent
Mr.S.Ravichandran

.. Petitioner

Vs.

1.The Director,
Indira Gandhi Centre for
Atomic Research, Kalpakkam 603102.

2.The Director,
Metallurgy and Materials Group
Kalpakkam 603102.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus to consider and dispose of the representation of the petitioner dated 11.05.2016 sent to the 2nd respondent seeking extension of time for completion of the remaining unexecuted work at the site at Demonstration Fuel Reprocessing Plant [DFRP] waste vault, IGCAR within a time fixed by this Court.

For Petitioner : Mrs.T.Jayalakshmi for
M/s.Paul and Paul
For RR 1 & 2 : Mr.N.Rajan, SCGSC

O R D E R

By consent, the writ petition is taken up for final disposal.

2 The petitioner was issued with a Work Order of preparation of Fabrication, Drawing, Procurement of all materials, Fabrication, Assembling, Testing and Erection of SS guide way, hopper, carriage and supporting members at DFRP waste vault and having noted certain deficiencies, a Show Cause Notice was issued by the 1st respondent on 30.09.2015 for which the petitioner sent a response on 09.10.2015. The 1st respondent sent a notice dated 26.11.2015 on the final action under the Agreement and it is relevant to extract the following:-

"[i]Determine the contract as aforesaid upon which determination your earnest money deposit, security deposit already recovered and Performance Guarantee stand absolutely forfeited to the Government and shall be absolutely at the disposal of Government, and

[ii]Take out such part of the work out of your hand, as remains unexecuted, for giving it to another contractor to complete the work, and you shall have no claim to compensation for any loss sustained by you by reasons of your having purchased or procured any materials or entered into any engagements or made any advances on account of or with a view to the execution of the work or the performance of the contract. You are also hereby served with notice to the effect that the work executed by you will be measured till date for which you are asked to attend for joint measurement failing which the work will be measured by the department unilaterally in your absence and result of measurement will be final and will be binding on you.

[iii]You shall not be allowed to participate in the tendering process for the above work in future.

This is without prejudice to Government's right to take action under any other clauses or sub-clauses of the agreement and to realize Government dues and losses and damages whatsoever under such clauses or sub-clauses."

Thereafter, the petitioner was called upon to be present for the measurement of the work undertaken by her till 26.11.2015 and the petitioner had participated in the said process. The learned counsel for the petitioner would further submit that the petitioner sent representation dated 22.02.2016 followed by the reminders dated 16.03.2016 and 11.05.2016 undertaking to complete the work as per the specification and since no response is forthcoming, she came forward to file the present writ petition.

3 This Court heard the submissions of Mr.N.Rajan, learned Senior Central Government Standing Counsel who accepts notice on behalf of the respondents and he would submit that the 1st respondent has already indicated his mind through his communications dated 26.11.2015 and 05.01.2016 and therefore, prays for appropriate orders.

4 This Court has considered the rival submissions and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in her representations or in this writ petition, directs the 1st respondent to consider and dispose of the petitioner's representation dated 22.02.2016 as well as the reminders dated 16.03.2016 and 11.05.2016 respectively, in accordance with law and pass orders within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

6 The writ petition is disposed of accordingly. No costs.

AP

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Director,
Indira Gandhi Centre for
Atomic Research, Kalpakkam 603102.

2.The Director,
Metallurgy and Materials Group
Kalpakkam 603102.

+ 1 cc to M/s.Paul and Paul, Advocate Sr 46773

KR/1/9/16

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