

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30240/2016 and WMP.No.26231/2016

Sree Subam Construction
rep.by its Partner, Engineering
Contractors, No.33-A Nepal St.,
Kallakurichi 606202,
Villupuram District. Petitioner

Vs.

- 1.The Superintending Engineer [H]
Construction & Maintenance Circle
Ellis Chatram Road
Villupuram 605401.
- 2.The Divisional Engineer
C&M Highways Department
Kallakurichi Division,
Kallakurichi. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd respondent to follow the terms of G.O.Ms.No.101, issued by the Public Works [G2] Department dated 10.06.2009, taking the base date from the date of signing works agreement to end of agreement period and to settle the amount to the petitioner by considering the representation dated 21.07.2016 within specified time to be fixed by this Court.

For Petitioner : Mr.A.Thiyagarajan, Senior Counsel
assisted by Mr.D.Senthil Kumar

For Respondents: Mr.S.Navaneethan, AGP

ORDER

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

2 The petitioner was awarded contract for improvements and construction of culvert to the Government roads

in Kallakurichi [H], C&M, Sub Division, [Package 17] for the year 2014-15 and necessary work orders were also issued to him 08.12.2014 and an agreement came into being on 02.02.2015 and in terms of the same, it should be completed on or before 01.10.2015. According to the petitioner he successfully completed the work assigned to him strictly in terms of the above said agreement to the satisfaction of the respondents.

3 It is further stated by the petitioner that part payment for the work undertaken, has been disbursed and however, final bill is yet to be settled and he came to understand that while settling the final bill, the respondents used to adjust the price variations and after calculating the price variation/fluctuation, used to withhold the amounts which are payable to the petitioner by adopting the date of estimate value and it is in violation of G.O.Ms.No.101, Public Works [G2] Department dated 10.06.2009 and in this regard, the petitioner has also submitted a representation dated 21.07.2016 to the respondents and despite the receipt and acknowledgment of the same, no orders have been passed and hence, came forward to file the present writ petition.

4 Mr.A.Thiyagarajan, learned Senior Counsel assisted by Mr.V.Senthilkumar, learned counsel appearing for the petitioner has drawn the attention of this Court to Clause "C" of the above said Government Order and would submit that as per the said Government Order, the price value should be calculated from the date of signing the agreement to the end of the agreement period and therefore, the procedure adopted by the respondents is not in order and therefore, the petitioner is constrained to file the present writ petition and hence, prays for appropriate orders.

5 This Court heard the submissions of Mr.S.Navaneethan, learned Additional Government Pleader who accepts notice on behalf of the respondents.

6 Though the petitioner has prayed for a larger relief, this Court in the light of the facts and circumstances and without going into the merits of the same, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 21.07.2016 in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order.

7 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Superintending Engineer [H]
Construction & Maintenance Circle
Ellis Chatram Road
Villupuram 605401.
- 2.The Divisional Engineer
C&M Highways Department
Kallakurichi Division, Kallakurichi.

+1cc to Mr.D.Senthilkumar, Advocate Sr.49877
+1cc to the Government Pleader sr.49810

सत्यमेव जयते

WP.No.30240/2016

sv[col
srg 12/09/2016

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