

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18046 of 2004

Sri Devi Enterprises,
Rep. by its Partner P.Krishnamurthy,
142, M.T.H.Road,
Villivakkam, Chennai-49.

.. Petitioner

Vs.

1. The Secretary,
Highways Department,
Fort St.George,
Chennai-9.

2. The Chief Engineer,
National Highways,
Chepauk, Chennai-5.

3. The Superintending Engineer,
National Highways, Salem.

4. The Divisional Engineer,
National Highways, Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to disburse the Retention Amount and Security Deposit Amount, totalling Rs.13,96,286/- to the petitioner.

For Petitioner : Mr.Yogesh Kannadasan for
Mr.M.Suresh Kumar

For Respondents : Mr.Akhil Akbar Ali, Govt. Advocate

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to disburse the Retention Amount and Security Deposit Amount, totalling Rs.13,96,286/- to the petitioner.

2. According to the petitioner, he has been awarded the contract work for execution of laying of roads and other works connected thereto, since the petitioner was successful tenderer for strengthening of two lanes in NH7. The petitioner completed

the said work and finally submitted the bill. Unfortunately, the amount payable to the petitioner was with-held on the ground that the road laid was sub-standard and that the petitioner was not given any amount as mentioned in the affidavit filed in support of the Writ Petition and that EMD and FSD were also with-held, totalling Rs.13,96,286/-. For allotment of work to the petitioner, the Department has proceeded against the concerned official under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and one of the charge is that the officer has allowed the contractor to execute a sub-standard quality of work and thus caused loss to the Government to the tune of Rs.14,86,453/-. It is further submitted that there was a vigilance enquiry pending against the official concerned and after completion of the vigilance enquiry, ultimately after the filing of the Writ Petition, and after completion of the departmental enquiry, the charges have been held not been proved. Since the work said to have been executed by the contractor is based on the work allotted by the officials of the National Highways Department, and that the charges against the concerned official having been held not to have been proved, any consequential action of the same will have to fail and the Writ Petitioner will have to succeed in this Writ Petition.

3. Accordingly, the Writ Petition is allowed with a direction to the respondents to refund the amount of Rs.13,96,286/- (Rupees thirteen lakhs ninety six thousand two hundred and eighty six only) to the petitioner within a period of 45 days from the date of receipt of a copy of this order. If the said amount is not paid within the stipulated time supra, the said amount will fetch interest @ 6% per annum from the date of the Writ Petition till the amount is paid and interest portion shall be recovered from the present Secretary to Government, Highways Department, Secretariat, Chennai, from his personal account. No costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

Copy to

1. The Secretary to Government,
Highways Department,
Fort St.George,
Chennai-9.

2. The Chief Engineer,
National Highways,
Chepauk, Chennai-5.
3. The Superintending Engineer,
National Highways, Salem.
4. The Divisional Engineer,
National Highways, Salem.

+ 1 cc to Mr.M.Suresh Kumar, Advocate, SR.58978
+ 1 cc to The Govt.Pleader, SR.60194

W.P.No.18046 of 2004

SK (CO)
NR 07/09/2017



WEB COPY