

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32518 of 2013

K.A.Abdul Rahiman

...Petitioner

Vs.

1.Government of Puducherry,
Rep. by P.W.D. Secretary,
Chief Secretariat,
Puducherry.

2.The Chief Engineer,
P.W.D. Pondicherry.

3.The Executive Engineer,
P.W.D. Department,
Mahe.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd Respondent relating to his order dated 30.08.2013 in Ref No.999/PW/A1/2013-14/479 and quash the same, and consequently direct him to consider afresh the Petitioner's request for escalation relating to

(i) construction of an Office Building for accommodating P.W.D. Division Office, Mahe in the existing P.W.D. Campus at Mahe for a sum of Rs.2,28,644.24 along with 18% interest P.a.

(ii) construction of a two storied building to Government Higher Secondary School at Pandakkal, Mahe for a sum of Rs.3,83,884.59 along with 18% interest P.a. as per Clause 10 (CC) of the agreement pertaining to the above works.

For Petitioner : Mr.R.Krishna Prasad
for M/s.Sarvabhauman Associates.

For Respondents : Mr.J.Kumaran,
Government Advocate (Puducherry)

O R D E R

The order dated 30.08.2013 is sought to be quashed and further direction is sought for to consider afresh the petitioner's request for escalation relating to

(i) construction of an Office Building for accommodating P.W.D. Division Office, Mahe in the existing P.W.D. Campus at Mahe for a sum of Rs.2,28,644.24 along with 18% interest p.a.

(ii) construction of a two storied building to Government Higher Secondary School at Pandakkal, Mahe for a sum of Rs.3,83,884.59 along with 18% interest p.a as per Clause 10 (CC) of the agreement pertaining to the above works.

2. Though, the learned counsel for the writ petitioner states that the petitioner is entitled to get escalated cost as per their calculations. However, the learned counsel for the respondents denied the contention by stating that the claim of the writ petitioner had already been considered by the respondents, and the same was rejected. However, the fact remains that the writ petitioner on execution of certain works sustained additional expenditures, and that made the writ petitioner to claim escalated charges from the respondents' State.

3. This Court is of an opinion that such complex and disputed facts and circumstances arising on account of contractual obligations can never be adjudicated in the writ petition under Article 226 of the Constitution of India. When the petitioner claims an escalated cost in respect of the execution of certain works, they have to submit documents in original, and adduce evidence before the Competent forum. This Court in writ petition proceedings cannot conduct a trial in respect of such disputed facts and circumstances arising on account of the contractual obligations between the parties. Thus, the writ petitioner is at liberty to approach the Competent forum for the purpose of redressing his grievances. Therefore, the present writ petition for grant of relief as such sought for in this writ petition deserves to be rejected.

4. Accordingly, the writ petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mbi/kp

To

1.The Secretary, PWD,
Government of Puducherry,
Chief Secretariat,
Puducherry.

2.The Chief Engineer,
P.W.D. Pondicherry.

3.The Executive Engineer,
P.W.D. Department,
Mahe.

+1cc to M/s.Sarvabhauman Association, Sr.No.63241
+1cc to Government Pleader & PP Sr.No.63406

KJI (CO)
sm:3.10.2018

W.P.No.32518 of 2013



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