

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Contempt Petition No.285 of 2018

Coimbatore Integrated Waste Management
Company Private Limited
No.4 (Old No.36)
3rd Street, Maheswari Nagar,
Thaneerpandal Road,
Peelamedu,
Coimbatore - 641 004
Rep. By its General Manager Petitioner

Vs

1.Dr.K.Vijayakarhikeyan, I.A.S.,
Commissioner,
Coimbatore City Municipal Corporation,
Big Bazar Street,
Coimbatore-641 004.

2.The State of Tamil Nadu,
Rep. By its Principal Secretary,
Municipal Administration and
Water Supply Department,
St George Fort,
Chennai - 600 009.

(Suo motu impleaded as second
respondent in Cont.P.No.285 of 2018,
as per order dated 07.03.2018)

..Respondents

Prayer:- This Contempt Petition has been filed under Section 11
of the Contempt of Courts Act, 1971 to punish the respondent for
willful contempt of disobedience of the order of this Court
dated 29.10.2015 in M.P.No.2 of 2015 in W.P.No.19633 of 2015.

For Petitioner : Mr.Jose John

For Respondents: Mr.R.Sivakumar

ORDER

The petitioner company which is an Integrated Waste Management Company Private Limited, had entered into an agreement with the first respondent Coimbatore City Municipal Corporation for collecting, handling and disposing the solid waste generated by the first respondent Corporation.

2.The contract was entered into between the petitioner and the first respondent Corporation On 19.11.2007, for a period of 20 years. The Readiness Certificate was given on 01.04.2011. The contract is in force till 31.03.2031. While the contract was executed by the petitioner company, certain disputes arose between the parties and therefore, the Corporation issued an order dated 10.06.2015 show causing as to why the contract should not be terminated. The said order was challenged before this Court in Writ Petition No.19633 of 2015.

3.This Court, by order dated 03.07.2015, granted an order of interim stay. Subsequently, on 29.09.2015, this Court directed the first respondent Corporation to pay a sum of Rs.1,65,00,000/- out of Rs.7,79,59,143/- already due towards transportation fee. Thereafter, series of directions have been given.

4.Contending that the order of this Court dated 29.09.2015, has been violated, the present Contempt Petition has been filed by the petitioner.

5.Heard Mr.Jose John, learned counsel for the petitioner and Mr.R.Sivakumar, learned counsel for the respondents.

6.Both the learned counsel for the petitioner and the learned counsel for the respondents would represent that the parties have met on 04.07.2018 and after deliberation, the issues have been settled between them. In this regard, the minutes of the meeting held on 04.07.2018 signed by both parties has been filed. The relevant portion of the said minutes is extracted below:-

"7.Transportation Fees:

As regards, the old pending payments towards transportation charges for the period from June 2017 to May 2018, the petitioner firm on their part made their claims amounting to Rs.13.26 Crores had requested to release the above said payment amount in 12 instalments at the rate of Rs.1.11 Crores per Month commencing from 15th July 2018 onwards. The reasonable request made by the petitioner firm was duly considered by the Corporation and found acceptable as well as for making payment in 12 monthly instalments. This was mutually

agreed to by the Corporation and the Petitioner Firm. This is proposed to be paid along with the future payment of monthly running account bills towards transportation charges from the month of June 2018 onwards by the Corporation.

As regards, the future payment of monthly running account bills towards transportation charges from the month of June 2018 onwards, the petitioner firm on their part had requested for 100% payment for the work done every month in order facilitate them to pay for their monthly commitments such as fuel charges, payments of employees' wages, etc., then and there in order to ensure un-interrupted Operation & Maintenance. The reasonable request made by the Petitioner firm was duly considered by the Corporation and found acceptable.

Processing Fees:

As regards, the old pending payments towards processing charges for the period from November 2012 to May 2018, the petitioner firm on their part made their claims amounting to Rs.13.72 Crores had requested to release 50% of the above said payment amount namely Rs.6.86 Crores to be paid in 12 instalments at the rate of Rs.57.16 Lakhs per Month commencing from 15th July 2018 onwards. It was informed by the Corporation that an amount of Rs.3.78 Crores (25% of Rs.15.13 Crores) for the period from November 2012 to February 2017 had already

been paid to the firm. The Corporation considered and agreed to release an amount of Rs.3.78 Crores (25% of Rs.15.13 Crores) for the above said period. In addition to the above, the Corporation considered and agreed to release an amount of Rs.1.45 Crores (50% of Rs.2.90 Crores) for the period from March 2017 to May 2018 as already committed before the Hon'ble High Court at Madras on 27-06-2018. In all the Corporation had agreed to release an amount of Rs.5.24 Crores towards sold pending processing charges for the period from November 2012 to May 2018 in 12 monthly instalments. The issue of releasing of the balance 50% payment would be sorted out through Arbitration Proceedings as provided for in the Concession Agreement. This was mutually agreed to by the Corporation and the Petitioner Firm. This is proposed to be paid along with the future payment of monthly running account bills towards processing charges from the month of June 2018 onwards by the Corporation.

As regards, the future payment of monthly running account bills towards processing charges from the month of June 2018 onwards, the petitioner firm on their part had requested for 100% payment for the work done every month in order facilitate them to pay for their monthly commitments towards Operation & Maintenance works. The Corporation on its part had agreed to consider and release 50% payment for the work done every month bearing in mind the larger interest of the Solid Waste

Management Services rendered by the Petitioner firm to the Corporation. The issue of releasing of the balance 50% payment would be sorted out through Arbitration Proceedings as provided for in the Concession Agreement. This was mutually agreed to by the Corporation and the Petitioner Firm.

Land Filling Fees:

As regards, the old pending payments towards land filling charges for the period from May 2012 to May 2018, the petitioner firm on their part made their claims amounting to Rs.5.52 Crores had requested to release 75% of the above said payment amount namely Rs.4.14 Crores to be paid in 12 instalments at the rate of Rs.34.52 Lakhs per Month commencing from 15th July 2018 onwards. It was informed by the Corporation that an amount of Rs.40.79 Lakhs (50% of Rs.81.58 Lakhs) for the period from May 2011 to May 2012 had already been paid to the firm. The Corporation on its part had informed that issue of releasing of the balance 50% payment would be sorted out through Arbitration Proceedings as provided for in the Concession Agreement. In addition to the above, the Corporation considered and agreed to release an amount of Rs.2.55 Crores (50% of Rs.5.11 Crores) for the period from May 2012 to May 2018 in 12 monthly instalments as already committed before the Hon'ble High Court at Madras on 27-06-2018. The issue of releasing of the balance 50% payment would be sorted out

through Arbitration Proceedings as provided for in the Concession Agreement. This was mutually agreed to by the Corporation and the Petitioner Firm. This is proposed to be paid along with the future payment of monthly running account bills towards processing charges from the month of June 2018 onwards by the Corporation.

As regards, the future payment of monthly running account bills towards land filling charges from the month of June 2018 onwards, the petitioner firm on their part had requested for 100% payment for the work done every month in order facilitate them to pay for their monthly commitments towards Operation & Maintenance works. The Corporation on its part had agreed to consider and release 50% payment for the work done every month bearing in mind the larger interest of the Solid Waste Management Services rendered by the Petitioner firm to the Corporation. The issue of releasing of the balance 50% payment would be sorted out through Arbitration Proceedings as provided for in the Concession Agreement. This was mutually agreed to by the Corporation and the Petitioner Firm.

O&M Charges for Scientific Closure Work:

As regards, the old pending payments towards O&M of Scientific Closure of Kavundampalayam and Ondipudur sites for the period from September 2012 to September

2017, the petitioner firm on their part made their claims amounting to Rs.80.85 Lakhs had requested to release the above said payment amount in 12 instalments commencing from 15th July 2018 onwards. The reasonable request made by the petitioner firm was duly considered by the Corporation and found acceptable as well as for making payment in 12 monthly instalments. This was mutually agreed to by the Corporation and the Petitioner Firm. This is proposed to be paid along with the future payment of monthly running account bills towards transportation, processing and land filling charges from the month of July 2018 onwards by the Corporation.

As regards, the future payment towards the annual O&M running account bills towards Scientific Closure works, the petitioner firm on their part had requested for 100% payment for the work done. The reasonable request made by the Petitioner firm was duly considered by the Corporation and found acceptable.

Interest claimed towards delayed bill payments:

The petitioner firm made their claims amounting to Rs.9.52 Crores towards delayed bill payments and had requested to release the same in 12 equal monthly instalments commencing from 15th July 2018. The Corporation on its part expressed its view

that since the matter is subjudice at present and that it will be considered separately."

7.It is reported to this Court that during the pendency of this Contempt Petition, W.P.No.19633 of 2015 was withdrawn by the petitioner in view of the amicable settlement arrived at between the parties on 04.07.2018.

8.Since, the issue has been sorted out as per the Minutes of the Meeting held on 04.07.2018 between the parties and which is filed before this Court, the Contempt Petition is closed. However, the Minutes of the Meeting held on 04.07.2018 between the parties shall form part of the record.

jbm

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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CO/05/10/2018

One cc to M/s.King & Patridge, Advocate, Sr.No.12341