

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.31660 of 2018

M/s. Subaya Constructions Co. Ltd.,
Rep. by its Director Mrs.S.Meenakshi,
No.21, Soundarapandian Salai,
Ashok Nagar,
Chennai - 600 083.

... Petitioner

Vs.

1.The Senior Audit Officer,
O/o. the Principal Accountant General (G&SSA),
Lekha Pariksha Bhavan,
361, Anna Salai, Teynampet,
Chennai - 600 018.

2.TWAD Board,
Represented by the Executive Engineer,
Urban Division,
Villupuram.

3.TWAD Board,
Represented by the Chief Engineer,
Northern Region,
Vellore.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF MANDAMUS, directing the second respondent to forthwith pay the pending dues towards 3.5 MLD Contract to the petitioner.

For Petitioner : Mr.B.Natarajan

For R1 : Mr.V.Vijay Shankar

For R2 & R3 : Mrs.R.Tamizharasi
TWAD Board

O R D E R

The petitioner has filed the Writ Petition praying to issue a Writ of Mandamus, directing the second respondent to forthwith pay the pending dues towards 3.5 MLD Contract to the petitioner.

2.The learned counsel for the petitioner submitted that the third respondent called for the tenders for the construction, commissioning, trial run for six months and subsequent maintenance of Sewage Treatment Plant (STP) of 3.5 MLD capacity at Erumanthangal Eri in Villupuram Municipality, for five years on Designs Built, Operate and Transfer (DBOT) basis, vide Bid No.24/DO2.CW/NR/2009 dated 21.01.2009 by two cover system of Technical Bid followed by the Price Bid. The petitioner participated in the tender with Technical Bid and the Price Bid and he became a successful bidder. The third respondent accepted the designs of the petitioner and entered into an agreement with the petitioner in Agreement No.CE/NR/07/2009-2010, dated 22.06.2009.

3.After completion of the above said work the TWAD Board has not settled the pending payments to the petitioner. Hence, the petitioner made a request on 12.07.2016 to the Executive Engineer, TWAD Board for the release of the pending payments for the works executed by the petitioner. The petitioner had already filed Writ Petitions in W.P.Nos.22015 to 22017 of 2015 for getting the payment. Since no action was taken, the petitioner approached this Court to issue an appropriate direction to the second respondent to forthwith pay the pending dues towards 3.5 MLD Contract to the petitioner.

4.The learned counsel for the petitioner relying upon the letter No.PAG (G&SSA)/Admn.III/I/2018-19/596 dated 18.03.2019 issued by the Office of the Principal Accountant General (G & SSA), Teynampet, Chennai wherein the communication sent to the TWAD Board dated 14.03.2019 is also enclosed. On perusal of the said letter dated 14.03.2019, it is informed by the office of the Principal Accountant General (G&SSA) as stated below:

"Implementation of UGSS to Villupuram Municipality - Incorrect implementation of price adjustment clause leading to unauthorized aid to contractor Rs.1.96 crore" has been treated as settled and the inspection report No.F-03/2014-15 on the accounts of O/o the Executive Engineer, TWAD, Urban Division, Villupuram is also treated as closed."

In view of the aforesaid letter of the Principal Accountant General (G&SSA), there is no impediment to consider the claim of the writ petitioner.

5. Recording the subsequent communication sent by the Principal Accountant General (G&SSA) dated 14.03.2019, this Court directed the petitioner to submit an application to the Managing Director, TWAD Board, within a period of two weeks from the date of receipt of a copy of this order. If any such application is received the same shall be considered and pass orders in accordance with law, as expeditiously as possible within a period of eight weeks after providing an opportunity to the petitioner concerned.

6. With the above direction, this Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Senior Audit Officer,
O/o. the Principal Accountant General (G&SSA),
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Chennai - 600 018.
2. TWAD Board,
Represented by the Executive Engineer,
Urban Division, Villupuram.
3. TWAD Board,
Represented by the Chief Engineer,
Northern Region, Vellore.

+1cc to Mr.B.Natarajan, Advocate, S.R.No.32187
+1cc to Mrs.R.Tamizharasi, Advocate, S.R.No.32161

W.P.No.31660 of 2018

VGII(CO)
CS/15/04/2019