IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.5438 of 2020

Ceiba ECC Pvt. Ltd.,
Rep. by its Authorized Representative,
G.Brahmananda Rao,
Road No.4, Dr.AS.Rao Nagar,
Secunderabad,
Telangana 500 062. ... Petitioner

Vs.

1. The Chief Engineer,
   Fishing Harbour Project Circle,
   Tsunami Project Implementation Unit,
   Fisheries Department,
   DMS Campus Teynampettai,
   Chennai.

2. The Executive Engineer,
   Fishing Harbour Project Division,
   Fisheries Department,
   Nagapattinam. .. Respondents

PRAYER: The Writ Petition has been filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first respondent to pass orders on the proposal submitted by the second respondent in his proceedings in Lr.No.FIII/2/03(A)/FHPD/ NGT/DB/2014, dated 06.05.2015 within a time that may be stipulated by this Court by considering the petitioner's representations dated 23.01.2018 and 06.03.2018.

For Petitioner : M/s.Gopika Nambiar

For Respondents : Mr.V.Shanmugasundar
Special Government Pleader

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O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Mandamus to direct the first respondent to pass orders on the proposal submitted by the second respondent in his proceedings in Lr.No.FIII/2/03(A)/FHPD/ NGT/DB/2014, dated 06.05.2015 within a time that may be fixed by this Court

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considering the petitioner's representations dated 23.01.2018 and 06.03.2018.

2. The learned counsel for the petitioner submits that the petitioner Company is a private limited company incorporated under the Companies Act. It is involved in the business of infrastructure development. The respondents issued an advertisement calling for tenders for construction of Diaphragm Wall and retaining Wall along with southern side of Kaduvaiyur River. The said work was awarded to M/s.Aster Infratek Pvt. Ltd., which later changed its name to the present one of the petitioner Company.

3. She further submits that the said contract was awarded to the petitioner Company for the afore-mentioned infrastructure development vide proceedings of the respondent dated 28.11.2011 for a tender work value of Rs.10,56,75,045/-. The petitioner had completed the said work to the satisfaction of the respondents on 28.02.2015. The defect liability period for the said infrastructure had also expired in May, 2016. However, while the work was in progress, the Diaphragm Wall deflected resulting in few other works. Therefore, the petitioner submitted a claim for about Rs.1,12,56,766/- through the representation dated 10.11.2014 and requested payment of the same. However, due to paucity of funds, only a sum of Rs.52,84,000/- was sanctioned and paid by the respondents to the petitioner with an assurance to pay the balance. Hence, another representation was preferred seeking payment of the balance amount of Rs.59,72,766/-. In pursuant to the same, the second respondent by his proceedings dated 06.05.2015 addressed to the first respondent, had laid a proposal for sanction of the said sum and for payment of the same to the petitioner. Despite the said proposal having been submitted by the second respondent to the first respondent in the year 2015, there has been no decision taken by the first respondent on the said proposal till date.

4. She further submits that in the meanwhile, the petitioner had preferred representations on 23.01.2018, 06.02.2018 and 06.03.2018 seeking release of the said payment, but, the same are yet to be disposed of by the respondents. Hence, the petitioner is before this Court.

5. Heard the learned counsel appearing for the petitioner and learned Special Government Pleader appearing for the respondents.

6. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the representations, directs the first respondent to consider the petitioner's

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representations dated 23.01.2018 and 06.03.2018, which were sent pursuant to the proceedings of the second respondent in Lr.No.FIII/2/03(A)/FHPD/ NGT/DB/2014, dated 06.05.2015 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and the persons interested in this regard and also affording them an opportunity of personal hearing, within a period of six (6) weeks from the date of receipt of a copy of this order.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chief Engineer,
   Fishing Harbour Project Circle,
   Tsunami Project Implementation Unit,
   Fisheries Department,
   DMS Campus Teynampettai,
   Chennai.

2. The Executive Engineer,
   Fishing Harbour Project Division,
   Fisheries Department,
   Nagapattinam.

+1 Cc to M/s. Gopika Nambiar, Advocate sr 42527.

W.P.No.5438 of 2020

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