

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.10897 & 11033 of 2020

and

W.M.P.Nos.13427, 13228, 13237 & 13428 of 2020

W.P.No.10897 of 2020

AISHWARYA Infrastructures,
Represented by its Partner Mr.Saranam Durai
H.O.9/156, Raja Palace,
Chelladurai Nagar, Krishnapuram,
Thirunelveli - 627 011 &
Branch Office at No.13 (375)A,
1st Main Road, Nadesan Nagar,
Virugambakkam,
Chennai - 600 092

...Petitioner

Vs

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
2. The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
3. The Executive Engineer,
PWD, Building Maintenance Division,
Medical Works, Chepauk,
Chennai - 600 005.

..Respondents

Prayer in W.P.No.10897/2020 ..Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relevant to the impugned notice in KA.No.KO.2/KAPAUOKO-2/2020 dated 23.07.2020 passed by the 3rd respondents and quash the same as illegal, improper, unreasonable, arbitrary, against the principles of natural justice.

W.P.No.11033 of 2020

AISHWARYA Infrastructures,
Represented by its Partner Mr.Saranam Durai

H.O.9/156, Raja Palace,
Chelladurai Nagar,
Krishnapuram,
Thirunelveli - 627 011 &
Branch Office at No.13 (375)A,
1st Main Road, Nadesan Nagar,
Virugambakkam,
Chennai - 600 092

..Petitioner

Vs

1. The Government of Tamil Nadu,
rep.by its Chief Secretary,
Fort St.George, Chennai - 600 009.
2. Public Works Department,
Government of Tamil Nadu,rep. by its Secretary,
Fort St.George, Chennai - 600 009.
3. The Superintendent Engineer,
PWD, Building (C & M) Circle,
Medical Works, Chepauk, Chennai - 600 005.
4. The Executive Engineer,
PWD, Building Maintenance Division,
Medical Works, Chepauk,
Chennai - 600 005.

..Respondents

Prayer in W.P.No.11033/2020 :Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relevant to the impugned order in Letter No.7 M/F.3/2020 dated 31.07.2020 passed by the 4th respondent and quash the same as illegal, improper, unreasonable, arbitrary, against the principles of natural justice.

For Petitioner	
in both the W.Ps.	: Mr.M.Ganesh Babu
For Respondents	
in both the W.Ps.	: Mr.M.D.Ilayaraja Government Advocate

COMMON ORDER

This matter is taken up for hearing through Video Conferencing mode.

2. W.P.No.10897/2020 is filed challenging the notice dated 23.07.2020 calling upon the petitioner to stop the demolition work of the subject matter building within the campus of Stanley Medical College and Hospital temporarily till the end of Covid-19 situation.

3.W.P.No.11033/2020 is filed challenging the proceedings of the 4th respondent dated 31.07.2020 cancelling the contract awarded to the petitioner in respect of the above said demolition work on the reason that since the demolition work will spoil the health of Covid-19 patient who are taking treatment in the Stanley Medical College & Hospital.

4. The short facts, which lead to filing of these two writ petitions are as follows:

The petitioner in both the writ petitions is one and the same. The petitioner was awarded contract to carry out the work of demolition of C,D,E,F,H & I Block of Men's Hostel building at Government Stanley Medical College and Hospital, Chennai. The petitioner, in pursuant to the above contract, though started to carry out the work on 22.07.2020, however, was called upon to stop the said work through the impugned notice dated 23.07.2020 on the reason that since the Stanley Medical College and Hospital is functioning as a Centre for treating corona patients and therefore, the petitioner has to stop the work temporarily till the end of Covid-19 situation. The petitioner approached this Court and filed the above writ petition in W.P.No.10897/2020 challenging the above said notice. While the matter was pending, the 4th respondent issued the cancellation order dated 31.07.2020 as stated supra, which is put to challenge in W.P.No.11033/2020.

5. Learned counsel appearing for the petitioner submitted that there is no other reason stated by the respondents in the impugned order to cancel the contract, except stating that corona patients are taking treatment in the said Hospital and therefore, the demolition work will not be conducive now. Therefore, he submitted that the petitioner is ready and willing to carry out the work as and when the respondents permit the petitioner to carry out the same, since the petitioner was awarded the contract already and consequently, the petitioner has also invested huge funds in executing such contract.

6. Mr.M.D.Ilayaraja, learned Government Advocate, based on instructions, submitted that the only reason stated for cancelling the contract is that the Stanley Medical College and Hospital is a Corona Treatment Centre and therefore, any demolition work will not be conducive, as such work will spoil the day to day activities of the Hospital.

7. Heard both sides. Perused the materials placed before this Court.

8. There is no dispute to the fact that the petitioner was awarded the contract to demolish the building situated within

the campus of Stanley Medical College and Hospital. It is also not in dispute that the petitioner has started to carry out the work and however, they were asked to stop the work only on the reason that the said Hospital is functioning as a Corona Treatment Centre. The order of cancellation of the contract also speaks only the above said reason. Further, it is to be noted that the said order of cancellation was passed without issuing any notice to the petitioner as well. However, as it is stated before this Court by the learned counsel for the petitioner that the petitioner will wait till the respondents give permission to carry out the said demolition work, once the situation is conducive, this Court is of the view that in the interest of justice, both these Writ Petitions can be disposed of by passing the following orders.

(a) W.P.No.11033/2020 is allowed and the impugned order of cancellation dated 31.07.2020 is set aside and the matter is remitted back to the respondents for considering the request of the petitioner to carry out the demolition work after permission is granted by the respondents to do the same.

b) The petitioner is directed to give a fresh representation to the respondents seeking permission to carry out the work, once the situation becomes conducive, within a period of two weeks from the date of receipt of a copy of this order.

(c) Since W.P.No.10897/2020 is filed only against the notice to stop the work and in view of the order passed in W.P.No.11033 of 2020, no further order is necessary in W.P.No.10897/2020 and thus, the same is closed.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

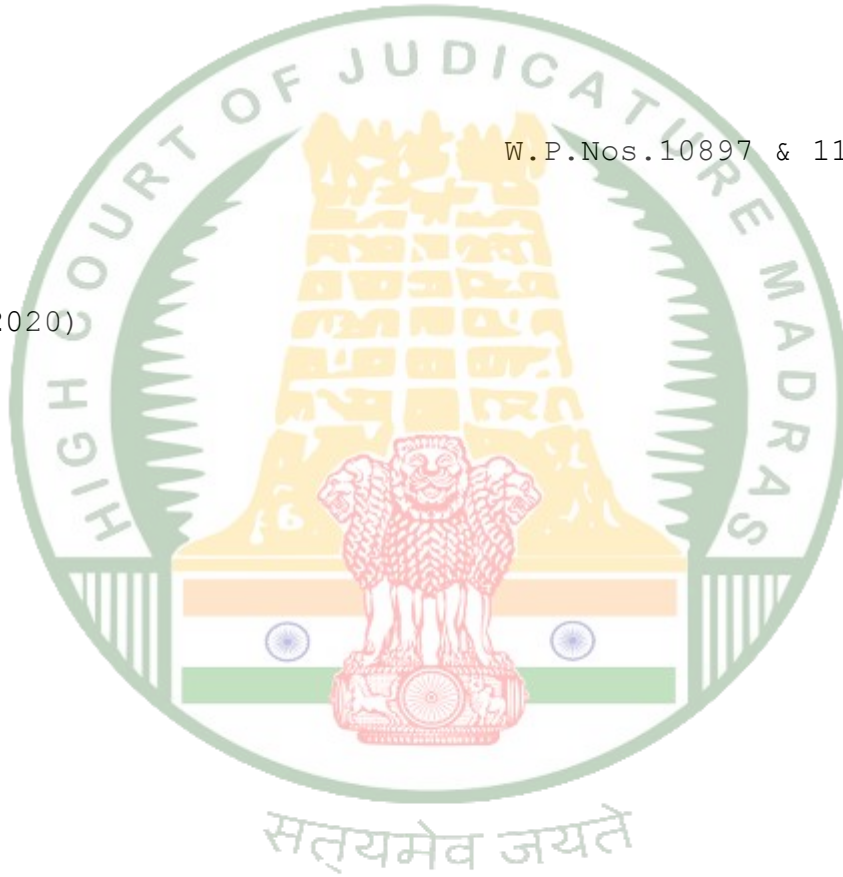
1. The Chief Secretary,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
2. The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

3. The Superintendent Engineer,
PWD, Building (C & M) Circle,
Medical Works, Chepauk,
Chennai - 600 005.
4. The Executive Engineer,
PWD, Building Maintenance Division,
Medical Works, Chepauk,
Chennai - 600 005.

+lcc to Mr.M.Ganesh Babu, Advocate in SR.NO..31115
+lcc to the Government Pleader in SR.NO..31497

W.P.Nos.10897 & 11033 of 2020

VG-I (CO)
RV(07/10/2020)



WEB COPY