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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.11818 of 2013

M/s.RPP Infra Projects Ltd.,
[Formerly known as RPP constructions (P) Ltd]
Represented by its Whole Time Director,
A.Nithya
SF No.454, Ragupathinaickenpalayam,
Poondurai Road, Erode - 638 002.

...Petitioner

Vs

1.The Superintendent Engineer,
TWAD Board, Erode - Tiruppur - karur Circle,
No.216, Arumugam Street,
Thirunagar Colony, Erode - 638 003.

2.The Executive Engineer,
TWAD Board, RWS Division,
No.10, Muthuswamy Street,
Sathy Road, RR Lodge Backside,
Erode - 638 001.

3.The Executive Engineer,
TWAD Board, NRAP Division,
No.71, Poongundranar Street,
Karungalpalayam, Erode - 638 003.

4.The Managing Director,
TWAD Board, Head Office,
31, Kamarajar Salai,
Chepauk, Chennai 600 005.

5.The Chief Engineer,
TWAD Board, Western Region,
No.46, Bharathi Park Road,
Coimbatore - 43.

...Respondents



Prayer : Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the Respondents 1 to 3 herein to take final measurement of works and issue final completion certificate with respect to the works done pursuant to the agreement No.SE.CR./2/04.05, dated 05.08.2004.

For Petitioner : Mr.P.J.Rishikesh

For Respondents : Ms.S.Tamizharasi

O R D E R

This Writ Petition is filed seeking a direction to the Respondents 1 to 3 herein to take final measurement of works and issue final completion certificate with respect to the works done pursuant to the agreement No.SE.CR./2/04.05, dated 05.08.2004.

2. The brief facts of the case are that the petitioner was selected as a successful bidder in the tender called for by the 1st respondent for Arresting percolation of water through the bed of the waste stabilization ponds in the Sewage treatment plant (STP) of the capacity of 20 MLD at Lakkapuram using cement, dry fly ash of Mettur thermal plant, LDPE Sheet, etc, including commissioning and maintenance of the entire work for a period of one year under Perumpallam Odai Scheme. Accordingly, the site was handed over to the petitioner on 27.07.2004 and he completed the work on 15.04.2005 itself. Thereafter on commissioning, the Sewage Treatment Plant (STP) could not retain water inside the tank. Hence, the petitioner was called upon to rectify the said defect. However, the petitioner refused to rectify the same as the leakage was not due to faulty construction and it is only due to faulty design as provided for in the tender condition. Hence, there is a due in settling the amount to the petitioner for the work allotted.

3. According to the petitioner, though the petitioner duly and diligently completed the entire work in terms of the contract and is legitimately expecting the balance payment, the respondent Board abandoned the work and deliberately withheld the payment due to the petitioner. Hence, the petitioner sent a legal notice, dated 17.04.2012 to the respondents followed by



a reminder dated 08.02.2013, claiming balance value of work. As there was no response on the notice and letter, the petitioner has approached this Court by filing the present Writ Petition.

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4. Upon notice, the 2nd respondent filed a detailed counter, denying all the allegations stated in the affidavit and prays for dismissal of the present Writ Petition.

5. In this circumstance, the learned counsel for the petitioner would submit that it would suffice if the letter dated 08.02.2013 sent by the petitioner, is directed to be considered by the respondents, on merits.

6. Considering the facts and circumstance of the case, this Court without going into the merits of the case, directs the respondents to consider the petitioner's letter dated 08.02.2013, if not already considered, take decision and pass appropriate orders on merits and in accordance with law after affording an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

vum

To

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+1cc to Mr.P.J.Rishikesh, Advocate SR.No.42987

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PCH(CO)
RVM(27/09/2021)