



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 1218 of 2014
and M.P.Nos. 1 & 2 of 2014

E.Ramana Reddy

...Petitioner

Vs

The Commissioner
Salem City Municipal Corporation,
Salem.

...Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India for Writ of Certiorarified Mandamus, calling for the records on the file of the respondent culminated in Roc.No.1072/F1/2003, dated 23.10.2013 and quash the same and consequently direct the respondent to pay the arrears of Rs.7,47,732/- and to return the bank guarantee in the BG.No.BOM/1021/BG03/2010-2011, dated 24.07.2010.

For Petitioner : M/s.N.Sampath

For Respondent : Mr.S.Diwakar

O R D E R

The challenge in the writ petition is the impugned cancellation order dated 23.10.2013 issued by the respondent.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent and perused the records.

3. The learned counsel appearing for the petitioner has submitted that the petitioner was the highest bidder from the contractors for collection and transportation of solid waste from the houses, buildings and public places on daily basis with street sweeping, drain cleaning in public street, roads and open spaces in 21 divisions of Salem Corporation. The respondent entered into an agreement with the petitioner on 12.07.2010 and as per the tender notification, the petitioner has issued the bank guarantee dated 24.07.2010 for a sum of Rs.1,00,00,000/-.



Thereafter, the respondent had issued work order to the petitioner for a period of three years from commencing from the year 2010. The petitioner also started executing the work in accordance with the terms and conditions incorporated in the tender notification. While that being so, the respondent without any reason, has issued the impugned cancellation order dated 30.10.2012, terminating the contract with effect from 30.10.2012. Challenging the same, the present writ petition.

4. The learned Standing Counsel appearing for the respondent has filed a counter affidavit before this Court and submitted that the petitioner had violated the Tender Condition of the Sold Waste Management Work in Salem Corporation. Notice was also served on the petitioner seeking explanation for violation of Tender Conditions. Since the respondent-Corporation was not satisfied with the explanation submitted by the petitioner, the impugned cancellation order was passed by the respondent-Corporation. Thereafter, the petitioner has raised the claim of sum of Rs. 7,47,732/- towards arrears bill dated 27.12.2012.

5. The learned Standing Counsel appearing for the respondent has further submitted that the respondent Corporation have deducted a sum of Rs.6,25,200/- towards penalties for the period from January'2012 to October 2012, on the basis of unsatisfactory monthly reports as per clause 18.2 of the Agreement. Further the petitioner has done his work as contractor only one day i.e on 31.10.2012, for which he is entitled to Rs.1,19,387/- (Rs.1,22,532 - Rs.3,145/-(Tax deduction)). The learned Standing Counsel appearing for the respondent has further submitted that the petitioner has received the said amount, without prejudice to his rights.

6. A perusal of records would reveal that the petitioner has filed a suit in O.S.No.9043/2012 on the file of the Principle City and Sessions Judge, Bangalore for permanent injunction and the same is pending. The learned Standing Counsel appearing for the respondent has brought to the notice of this Court that the bank guarantee executed in favour of the Corporation has been settled by the respondent-Corporation. Therefore, only dispute that remain unsettle between the parties is with regard to the payment of arrears of sum of Rs 6,25,200/- to the petitioner.

7. In view of the agreement entered into between the petitioner and the respondent-Corporation, it is always open to the petitioner to seek his remedy invoking Clause 15 of the said Agreement. Hence, the petitioner shall approach the respondent-Corporation by making appropriate application by invoking Arbitration Clause as per the agreement. On receipt of



such application, the respondent -Corporation shall consider the same to refer before the arbitrator to resolve the issue.

8. With the observations, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ak

To

The Commissioner,
Salem City Municipal Corporation,
Salem.

+1 cc to Mr.S.Diwakar, Advocate Sr.No.34715

W.P.No. 1218 of 2014
and M.P.Nos. 1 & 2 of 2014

PCH (CO)
RVM(18/08/2021)