



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13537 of 2015
and M.P.No.2 of 2015

M.Sakthivel,
Managing Partner
M.S.Engineers,
No.19, Edayar Street,
Coimbatore - 641 001.

...Petitioner

Vs

Coimbatore City Municipal Corporation,
represented by its Commissioner,
Coimbatore - 641 001.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to its order in R.C.No.8172/2014/Md5 dated 11.04.2015 and quash the same in so far as it relates to withholding of amounts payable to the petitioner and direct the respondent to forthwith release the payment withheld by way of penalty, alleged loss and other recoveries.

For Petitioner : Mr.Kandhan Duraisami

For Respondent : Mr.K.Magesh SC (CBE Corporation)

O R D E R

The order dated 11.04.2015 is under challenge in the present writ petition.

2.The petitioner is the Managing Partner of M/s.M.S.Engineers and they are involved in the business of civil construction, building, laying road, formation and maintenance of parks including supply of labour for cleaning of bus stand, schools, street/road sides, etc. The petitioner has registered with the Coimbatore City Municipal Corporation as a Contractor



in the name and style of M/s.M.S.Engineers as per the approval of the Commissioner, Coimbatore City Municipal Corporation in Proceedings Roc.No.7188/2003/TAI dated 16.02.2004. The status of the petitioner was elevated from Class III to Class II Contractor in proceedings dated 14.12.2009. The petitioner had executed certain projects including construction of storm water drain, laying and formation of roads, supply of labour to the works connected with cleaning of drainage, road side removal of garbage, maintenance of school, maintenance of bus stand, maintenance of parks, supply of vehicles to the works connected with transfer of garbage from the collection centres to the Vellalloor dumping yard, providing patch work to the damaged portion of the road in Central Zone area, etc.

3.The grievances of the petitioner is that they were initially blacklisted and certain dues were not paid. Thus the petitioner was constrained to move the present writ petition.

4.During the pendency of the writ petition, pursuant to the orders of this Court dated 06.07.2018, the blacklisting was cancelled and the petitioner was again included in the list of approved Contractors.

5.As far as the claim regarding the refund is concerned, this Court is of the considered opinion that the petitioner admittedly is a Contractor executed certain works to the Municipal Corporation. The works were executed on certain terms and conditions of contract. Such contractual obligations cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Adjudication of the terms and conditions of contract requires scrutinization of documents and evidences including oral evidence. Thus, the parties are bound to approach the competent Court of law for the purpose of resolving the issues with reference to the contractual obligations. As far as the impugned order is concerned, various particulars are provided and all those particulars and details are to be adjudicated elaborately with reference to the original documents and evidences and such an adjudication cannot be undertaken in the present writ proceedings.

6.Thus, the petitioner is at liberty to approach the competent Court of law if any grievances exists. Alternatively, the petitioner is having any document to establish his case or otherwise, he is at liberty to approach the competent authorities of the respondent for the purpose of redressal of the grievances in the manner known to law. However, the Writ Court cannot grant the relief of refund in the present case as



the issues involved are relating to the contractual obligations between the parties and therefore, the relief cannot be granted as such sought for.

7. With the above observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

cse
To

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

+1cc to M/s.Muthumani Doraisami, Advocate Sr.1767
+1cc to Mr.K.Magesh, Advocate Sr.1853

W.P.No.13537 of 2015

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