



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.23774 of 2013

and

M.P.Nos.1 & 2 of 2013

M/s. Shivalaya Engineering Associates,  
MES Contractor Index no:B-222,  
Southern Command, Pune,  
Rep. by its Partner Mr.B.Mohan,  
At New No:608, old No:55,  
MTH Road, Avadi,  
Chennai-600 054.

... Petitioner

vs.

- 1.Union of India  
Rep. through Secretary,  
Ministry of Defence,  
South Block,  
New Delhi-110 011.
- 2.The Head Quarters Chief Engineer,  
Military Engineering Services,  
Mukhyalaya Mukhaya Abhiyanta,  
Dakshinkaman,  
Southern Command,  
Pune - 411 001.
- 3.The Directorate of Contract Management (E8),  
Rep. through Additional Asst. Director (Contracts)  
Engineer- In- Chief's Branch,  
Integrated HQ of MoD (Army),  
Kashmir House,  
New Delhi - 110 011.
- 4.The Chief Engineer,  
Military Engineering Services,  
Chennai Zone, Island Grounds,  
Chennai - 600 009.
- 5.The Director (Contracts),  
Chief Engineer's Office,  
CWE's Office,  
Chennai Zone, Island Grounds,  
Chennai - 600 009.



6.The Commander Works Engineer,  
CWE's Office,  
Chennai Zone, Pallavan Salai,  
Chennai - 600 009.

7.The Garrison Engineer (P),  
Rudra Road, St. Thomas Mount,  
Chennai-600 016.

8.The Additional Garrison Engineer, B/R (P) No.1,  
Rudra Road, St. Thomas Mount,  
Chennai-600 016.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Declaration, declaring the notification of the 3<sup>rd</sup> respondent issued on behalf of the 2<sup>nd</sup> respondent bearing No.800018/1/MAR-2013/28/E8 pertaining to consolidated Work Load Register for the Quarter Ending March 2013 dated 22.06.2013 as null and void so far as it relates to M/s. Shivalaya Engineering Associates bearing Class/Index No: B-222 in page No.59 of Part 1-B in Serial No:38 dated 22.06.2013.

For Petitioner : Mr.K.Vijayaraghavan

For Respondents : Mr.K.Srinivasamurthy

#### ORDER

The petitioner was awarded with a contract by the respondents. During the course of the contract, certain remarks were made on the performance of the petitioner. Aggrieved over the same, the petitioner has preferred the present writ petition.

2. I am surprised to note that without any order being passed in respect of the performance of the petitioner over the contract given to him as to how this writ petition is maintainable. Whether the petitioner performed well or not and whether the petitioner was served with a show cause notice or not? are all factual disputes in terms with the terms and conditions of this contract. Apart from that the parties are bound by the terms of contract.

3. The learned counsel appearing for the respondents would state that there is an in built Arbitration Clause in the contract itself and it is not open to the petitioner to approach this Court with the writ petition without exhausting the remedy available under the Agreement.



4. Considering the facts and circumstances of the case, this Court is of the considered opinion that the writ petition is premature and not maintainable on the remarks made by the respondents on the performance of the petitioner.

5. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ssi/dua

To:

- 1.The Secretary,  
Union of India  
Ministry of Defence,  
South Block, New Delhi-110 011.
- 2.The Head Quarters Chief Engineer,  
Military Engineering Services,  
Mukhyalaya Mukhaya Abhiyanta,  
Dakshinkaman, Southern Command,  
Pune - 411 001.
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SKM (CO)  
PR (13/04/2022)