



W.P(MD)No.2654 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.2654 of 2013

and

M.P(MD)No.2 of 2013

K.R.Chinnasamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St.George, Chennai-9.

2.The Executive Engineer,
Public Works Department,
Water Resource, Dindigul Division,
Dindigul Road, Palani,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent's proceeding in Letter No.T2/2525/2004 dated 09.02.2009 and quash the same as devoid of merits and consequently direct the respondents to disburse the arrears amount of Rs.1,82,435/- with interest to the petitioner for the contract works done by the petitioner for the Tank Bund Special Repair work at Ramasamuthiram Village, Channel Repair work at Veriyapoor Village



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and Tank Bund Special Repair work at Javvathupatti Village based on the Agreement Nos. 261, 263 and 264 executed in between the petitioner and the second respondent within a period stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein, under which the request of the petitioner for payment of his completed contract work has been rejected.

2. According to the petitioner, he has undertaken contract work for the second respondent herein under Agreement Nos.261, 263 and 264 DL/95/96. According to the petitioner, he has commenced the work and the progress of the work was regularly recorded in the Measurement book (hereinafter referred as M book) maintained by the respondent authorities. The petitioner has further contended that M Book No.2742 was allotted for Agreement No.261. As per the said M book, the value of the work completed by the writ petitioner is mentioned as Rs.62,632/- (Rupees Sixty Thousand Six Hundred and Thirty Two only). Likewise,



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M book No.2743 was allotted for Agreement Nos.263 and 264. As per the said M book, the value of the work completed by the writ petitioner was mentioned as Rs.60,920/- (Rupees Sixty Thousand Nine Hundred and Twenty Rupees only). According to the petitioner, even though he has completed the work to the satisfaction of the respondent authorities, the amount has not been disbursed. Hence, he had approached the authorities by way of a representation seeking the balance amount. Under the impugned order, the respondents have rejected the request of the petitioner on the ground that a part of the work has been assessed by the respondent authorities, for which the amount has already been released. For the rest of the work, since some defects were found out, review activities have to be carried out. Unless review activities are carried out, the value of the work done by the writ petitioner cannot be ascertained and consequentially the amount could not be released in favour of the writ petitioner. This order is under challenge in the present writ petition.

3. According to the learned counsel for the petitioner, the agreement is of the year 1995 and he has completed the work in the year 1996. So far he has not received any notice from the respondent authorities, alleging that there were some defects in the work carried out



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by him. Even the impugned order does not speak about the nature of defects that were found in the work completed by the writ petitioner. He further contended that if the respondent authorities wanted to review the work, the same could have been done at an earlier point of time and thereafter, they could have released the amount. Though the work was completed in the year 1996, the petitioner had been sending representations till 2006 and he was forced to send a legal notice on 20.11.2007. Thereafter, this Court had directed the authorities to consider the said legal notice and pass orders. Only thereafter, the present impugned order has been passed, without specifying the nature of defects or quantifying the value of the defects attributable to the writ petitioner. Hence, he prayed for allowing the writ petition.

4. Per contra, the learned Additional Government Pleader for the respondents had contended that the balance amount was not released to the writ petitioner only on the ground that the authorities have found some defects in the contract work carried out by the writ petitioner. The balance amount has been deducted only due to the said defective works. Hence, he prayed for dismissal of the writ petition.

5. I have carefully considered the submissions made on either side



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and perused the records annexed to the writ petition.

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6. A careful reading of the writ affidavit discloses that an M book is being maintained for the quality and the quantity of the work carried out by the writ petitioner. The authorities could very well find out the quality of the work from the M book. However, if the authorities suspect that there are defects in the quality of the work carried out by the writ petitioner, they are always at liberty to review the work and arrive at a finding whether there are any defects and with regard to the quantum of amount that could be deducted from the bill of the petitioner. However, last paragraph of the impugned order clearly states that a part of the work has been reviewed and the amount has been released. For the rest of the work, review has not been conducted and hence, the amount has not been released in favour of the writ petitioner. Therefore, it is clear that only due to the delay on the part of the respondent authorities in conducting a review of the work carried out by the writ petitioner, bill of the writ petitioner is pending with the respondent authorities.

7. In view of the above said finding arrived at by this Court, the



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order impugned in the writ petition is set aside. The matter is remitted back to the file of the second respondent herein. The second respondent herein shall undertake a review in the presence of the writ petitioner and arrive at the quantum of work and the quality of work carried out by the writ petitioner. On the basis of the said review, the balance bill amount, if any, shall be released to the writ petitioner. The said exercise shall be completed within a period of four (4) months from the date of receipt of a copy of this order.

8. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.08.2022

Index : Yes / No
Internet : Yes / No

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To

- 1.The Secretary,
The State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai-9.
- 2.The Executive Engineer,
Public Works Department,
Water Resource, Dindigul Division,
Dindigul Road, Palani,
Dindigul District.

R.VIJAYAKUMAR ,J.



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Order made in
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