



W.P(MD)No.2805 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.2805 of 2013

R.Karunanidhi

... Petitioner

Vs.

1.The Tamil Nadu State
Highways Department,
Superintending Engineer,
Trichirappalli -20.

2.The Divisional Engineer,
Thanjavur District (Highways)
Panagal Buildings, Thanjavur.

... 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 pertaining to the second respondent's impugned order dated 09.11.2012 passed in the payment of amount to the petitioner in the work 'improvements to mullangudi-Pozhakudi Road in KM 1/0- 2/7 Thiruvaidaimaruthur Taluk, Thanjavur District M-Book 1195/2012-2013 and quash the same and consequently direct the second respondent to release the fine amount so far collected to the petitioner.



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For Petitioner : Mr.T.R.Subramanian
For Respondent : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The present writ petition has been filed challenging a cheque slip issued by the second respondent herein, under which the penalty of 5% was imposed upon the writ petitioner for delay in completing the contract work.

2. According to the writ petitioner, he has entered into an agreement with the respondents State Highways on 02.01.2012 for the improvement of the road. As per the said agreement, the work has to be completed on or before 01.04.2012. Due to rain in the month of January, he could not complete the work by then and he sought for extension of time. The said extension was granted to the writ petitioner by way of an order, dated 16.08.2012 with certain conditions. Based upon the said conditions, the present impugned cheque slip has been issued to the writ petitioner deducting 5% for the amount of the work done during the late period. Hence, the cheque slip is under challenge in the present writ petition.



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3.The respondents have filed a counter. In paragraph No.14 of the counter, the respondents have pointed out that if the monetary claim amount is less than Rs.2 Lakh, it should be referred to arbitration as per the agreement between the petitioner and the respondents. Admittedly, in the present case, the monetary dispute between the petitioner and the respondents is Rs.1.74 lakh. Hence, on instructions, the learned counsel for the petitioner submits that he may be permitted to withdraw the writ petition with liberty to initiate proceedings under the Arbitration Act.

4.The said request is recorded. The Writ Petition is dismissed with liberty to the writ petitioner to initiate proceedings under the Arbitration Act for the levy of penalty imposed by the respondents Highways Department. No costs.

18.08.2022

Index : Yes / No
Internet : Yes / No
Rmk



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R.VIJAYAKUMAR ,J.

Rmk

To

1.The Superintending Engineer,
Tamil Nadu State
Highways Department,
Trichirappalli -20.

2.The Divisional Engineer,
Thanjavur District (Highways)
Panagal Buildings, Thanjavur.

Order made in
W.P(MD)No.2805 of 2013

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