



Writ Petition No.4073 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.4073 of 2023

and

W.M.P.No.4123 of 2023

M.S.Veerappan
S/o.Late Sengali Gounder

... Petitioner

Vs.

- 1.The Director,
Commissionerate of Municipal Administration,
Urban Administrative Office,
Chennai - 600 028.
- 2.The Assistant Director,
Assistant Commissionerate of Municipal Administration,
Salem Zone, Office of the Collectorate,
Salem District 1.
- 3.The Executive Officer,
Velur Town Panchayat Office,
Velur Post, Paramathi-Velur Taluk,
Namakkal District - 638 182.

... Respondents



Writ Petition No.4073 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the third respondent in Na.Ka.No.327/2022, dated 12.12.2022 and to quash the same and direct the third respondent to consider the petitioner's representation dated 07.12.2022 within a stipulated period.

For Petitioner : Mr.K.S.Vivekanandam

For Respondents : Mr.R.Kumaravel,
Additional Government Pleader [R1 & R2]
Mr.T.Arunkumar,
Additional Government Pleader [R3]

ORDER

This writ petition has been filed assailing the order passed by the third respondent through proceedings in Na.Ka.No.327/2022, dated 12.12.2022 and for a direction to the third respondent to consider the representation made by the petitioner on 07.12.2022 and to disburse him all the amounts that are due and payable after the completion of the work as per the contract entered into with the third respondent.

2. The case of the petitioner is that the third respondent had issued a



Writ Petition No.4073 of 2023

tender for laying roads and the petitioner participated in the same and he was declared as the highest bidder. The grievance of the petitioner is that the work started in the year 2014-15 and it went up to the year 2021. According to the petitioner, he had completed all the works and raised invoices from time to time. The claim made by the petitioner is a total sum of Rs.29,84,094/- and this amount was not paid to the petitioner. Hence, the petitioner filed W.P.No.24550 of 2022 before this Court and this Court, by an order dated 13.09.2022, directed the respondents to consider the representation made by the petitioner and to pass appropriate orders and to communicate the same to the petitioner within a period of twelve weeks. Pursuant to this order, the petitioner made a representation dated 07.12.2022 to the third respondent.

3. The third respondent, through proceedings dated 12.12.2022, informed the petitioner that insofar as certain works are concerned, there were certain deficiencies and it was pointed out in the audit and hence, unless the audit objection is cleared, the amounts which were retained



Writ Petition No.4073 of 2023

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cannot be released to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The third respondent has filed a counter affidavit. The stand taken by the third respondent is that it is usual practice that payments will be released only in a phased manner and major amount will be released only after approval from the competent authority after auditing and inspection of the work. In the present case, payment towards 15 works were objected on the technical side of the audit. In view of the same, those amounts alone were retained and the petitioner was called upon to give his explanation. According to the third respondent, a total sum of Rs.14,43,000/- has been retained and after the petitioner gives his explanation to the audit objection, the same will be considered and wherever the explanation is satisfactory, the amount will be released.



Writ Petition No.4073 of 2023

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5. Heard Mr.K.S.Vivekanandam, learned counsel for petitioner, Mr.R.Kumaravel, learned Additional Government Pleader, appearing for respondents 1 and 2 and Mr.T.Arunkumar, learned Additional Government Pleader, appearing for the third respondent.

6. The total amount that was due and payable to the petitioner even as per the affidavit filed in support of the writ petition is a sum of Rs.29,84,094/-. The same is also clear from the representation made by the petitioner on 07.12.2022. The stand taken by the third respondent is that certain deficiencies were found in some of the works that were undertaken by the petitioner and there was an audit objection and only insofar those works are concerned, the amount has been retained. The work for which the amount was retained has been explained by way of tabular column in the counter affidavit. This is in line with the proceedings of the third respondent dated 28.11.2022. The annexure to this proceedings gives the details of the work done and the amounts retained based on the audit objection. The actual audit objection that was made has also been annexed along with the



Writ Petition No.4073 of 2023

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impugned proceedings dated 12.12.2022. If the petitioner gives his explanation for the objections raised in the audit, it will be considered and the amount will be released.

7. In a case of this nature, the scope of interference in a writ petition is very limited. Unless the amount in question is undisputed, this Court will not issue a writ of mandamus. However, the writ petition was entertained only to ascertain the reason for which certain amounts were retained by the third respondent. Now that the third respondent has made it clear with regard to the reason for which the amount was retained, it is always open to the petitioner to give his explanation to the audit objection. Apart from that, there is absolutely no ground to interfere with the proceedings of the third respondent in Na.Ka.No.327/2022, dated 12.12.2022.

In the result, this writ petition is disposed of with a direction to the petitioner to give his explanation to the audit objections raised which have been annexed along with the impugned proceedings dated 12.12.2022. On



Writ Petition No.4073 of 2023

receipt of the explanation, the same shall be considered and a decision shall be taken within a period of four (4) weeks from the date of receipt of the same. Wherever, the explanation is found to be acceptable/wherever the petitioner also sets right the deficiencies pointed out, the amount shall be released to the petitioner. Wherever the explanation is found unacceptable or where the petitioner refuses to set right the deficiency as demanded by the third respondent, it is left open to the parties to work out their remedy in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

10.04.2023

Index : Yes/No
Speaking Order / Non Speaking Order
Neutral Citation: Yes/No
gm



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N. ANAND VENKATESH, J

gm

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