



W.P.Nos.11465 and 4420 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.11465 and 4420 of 2023

And

W.M.P.Nos.4452 and 4453 of 2023

M/s.Eswari Construction
Rep. by its Partner
D.Duraimurugan

... Petitioner in both the W.Ps.

Vs.

1.Tamil Nadu Police Housing Corporation Limited
(A Government of Tamil Nadu Undertaking)
Rep. by its Chairman cum Managing Director
No.132, E.V.R. High Road,
Kilpauk, Chennai – 600 010.

2.Chief Engineer,
Tamil Nadu Police Housing Corporation Limited
(A Government of Tamil Nadu Undertaking)
No.132, E.V.R. High Road,
Kilpauk, Chennai – 600 010.

3.Superintending Engineer/Chennai Circle,
Tamil Nadu Police Housing Corporation Limited
(A Government of Tamil Nadu Undertaking)
No.132, E.V.R. High Road,
Kilpauk, Chennai – 600 010.

4.The Executive Engineer/ Chennai Division I
Tamil Nadu Police Housing Corporation Limited
(A Government of Tamil Nadu Undertaking)
No.132, E.V.R. High Road,
Kilpauk,
Chennai – 600 010.

... Respondents in both the W.Ps.



W.P.Nos.11465 and 4420 of 2023

Prayer in W.P.No.11465 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the request of the petitioner made in writing on 20.02.2023 followed by 21.03.2023 for renewal of registration as a registered contractor of the respondent Corporation in terms of G.O.(Ms) No.37, Public Works (G2) Department, dated 17.06.2022, which had been adopted by the respondent Corporation through its Letter No.CE/DB/963/2022 dated 06.09.2022 and pass orders on the same on its merits and in accordance with law within the time frame stipulated by this Hon'ble Court.

Prayer in W.P.No.4420 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the concerned records from the fourth respondent, quash the order of the fourth respondent dated 27.12.2022 bearing Lr.No.DB/Ch-I/1158/20 as illegal, arbitrary and contrary to law and consequently direct the respondents to make the payment payable to the petitioner for having executed the entire work entrusted under the Agreement No.SE/326/2020 dated 26.02.2021.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.R.Shanmughasundaram
Advocate General
Assisted By
Mr.U.Baranidharan
Additional Government Pleader



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COMMON ORDER

The petitioner has filed W.P.No.11465 of 2023 seeking issuance of Writ of Mandamus directing the respondents to consider the request of the petitioner made in writing on 20.02.2023 followed by 21.03.2023 for renewal of registration as a registered contractor of the respondent Corporation in terms of G.O.(Ms) No.37, Public Works (G2) Department, dated 17.06.2022, which had been adopted by the respondent Corporation through its Letter No.CE/DB/963/2022 dated 06.09.2022 and pass orders on the same on its merits and in accordance with law within the time frame stipulated by this Court.

2.The petitioner has filed W.P.No.4420 of 2023 seeking issuance of Writ of Certiorarified Mandamus calling for the concerned records from the fourth respondent, quash the order of the fourth respondent dated 27.12.2022 bearing Lr.No.DB/Ch-I/1158/20 as illegal, arbitrary and contrary to law and to consequently direct the respondents to make the payment payable to the petitioner for having executed the entire work entrusted under the Agreement No.SE/326/ 2020 dated 26.02.2021.

3.Since the issue involved in these writ petitions are related to



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each other, they are heard together and disposed of by way of a common order.

4.The case of the petitioner is that the petitioner is engaged in civil construction work. The petitioner was awarded with the contract work for executing special repair works in the Police Quarters at Kondithope, Chennai, during the year 2021 and an agreement dated 26.02.2021 was entered into between the petitioner and the third respondent. Due to COVID 19 pandemic, the time schedule could not be kept up by the petitioner and thereafter vide order of the fourth respondent dated 27.12.2022, the contract was terminated. Hence, the petitioner filed W.P.No.4420 of 2023.

5.The further case of the petitioner is that the petitioner is a registered contractor of the first respondent and has to periodically renew the registration of the contract. Hence the petitioner made representation to the respondents seeking renewal of contract, however, the same has not yet been considered and it is causing grave hardship to the petitioner. Hence, the petitioner filed W.P.No.11465 of 2023.



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6.The learned counsel appearing for the petitioner submitted that there is a clause in the agreement dated 26.02.2021 entered into between the petitioner and the third respondent that if the dispute of claim exceeds Rs.50,000/- it should be referred to Court of law in Tamil Nadu and hence, this Court may relegate the parties to Arbitration by appointing an Arbitrator, so that the issues between the petitioner and the respondents could be arbitrated by the learned Arbitrator.

7.For such a course, the learned Advocate General appearing for the respondents also did not have any objection and he fairly conceded to the appointment of an Arbitrator.

8.In view of the fair stand taken by the learned counsel on either side, this Court passes the following order :-

*i) **Hon'ble Mr. Justice V.PARTHIBAN, Judge (Retd.)** is appointed as the Arbitrator to arbitrate the issue between the petitioner and the respondents.*

ii) The Learned Arbitrator shall decide upon the composition of the Committee so as to involve the representatives of the petitioner and the



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respondents.

iii) The place of arbitration shall be fixed by the Arbitrator with the consultation of the parties.

iv) Arbitration shall be held at the identified place at the convenience of the Arbitrator.

v) The learned Judge/Arbitrator shall fix his remuneration and also his boarding and lodging expenses in consultation with the petitioner and the respondents.

vi) The Committee shall start functioning from second week of July, 2023 and all efforts shall be made to complete the entire process, as expeditiously as possible.

vii) As and when any clarification is required, a memo shall be moved before this Court for obtaining appropriate orders.

9. Upon completion of the Arbitration proceedings, it is open to either parties to work out their remedy in the manner known to law, if they are otherwise aggrieved by the award in the arbitration proceedings. After completion of the Arbitration proceedings, the petitioner is at liberty to make fresh representation to the respondents seeking renewal of contract.

10. With the above directions and observations, the writ



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petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

20.06.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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