



WEB COPY



W.P.No.16509 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16509 of 2023

and

W.M.P.Nos.15840, 15841, 16425 and 16426 of 2023

M/S/Unique Builder - Janabal Constructions (JV),
No.36, D.N.Plaza, 2nd Floor, Thiruvalluvar Salai,
Thiruvalluvar Nagar, Mugappair East,
Chennai - 600 037,
Rep. by its Authorized Signatory & Lead Partner,
Mr.N.Sreenivasan

... Petitioner

Vs.

1. The Principal Chief Engineer,
General Manager Office,
Southern Railway,
Park Town, Chennai - 600 003.

2. The Deputy Chief Engineer,
Gati Sakthi Unit,
Headquarters Office,
Park Town, Chennai - 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the entire records of 2nd respondent impugned notices in M/W.496/Dy.CE/GS/PH-30/0090/23-24/7 days notice dated 17.05.2023, and in M/W.148/79/C/2010 dated 29.05.2023 and quash the same.



W.P.No.16509 of 2023

WEB COPY

For Petitioner : Mrs.Dakshayini Reddy for
Mr.Sathish Kumar
For R1 & R2 : Ms.S.P.Arthi

ORDER

Challenging the impugned notices dated 17.05.2023 and 29.05.2023 passed by the second respondent, the present writ petition has been filed by the petitioner.

2. It is the case of the petitioner that the second respondent issued a tender notification for construction of limited height subway and also informed that the last date for submitting the bid is on 15.02.2021, pursuant to which the petitioner submitted their bid which was accepted by the second respondent vide a letter dated 14.06.2021 and directed the petitioner to complete the work within 9 months from the date of issuance of the acceptance letter. Thereafter, the petitioner firm entered upon a contract agreement with the respondents on 29.10.2021. However, due to various hindrances the work was abnormally delayed by the petitioner. Hence, the second respondent issued a seven days notice dated 17.05.2023 advising the petitioner to take up the work immediately without further delay, failing which action will be taken against the petitioner to terminate the contract, for which



W.P.No.16509 of 2023

the petitioner has given a reply dated 22.05.2023, narrating the reason for the said delay. Since the progress in completing the work was very poor, the second respondent issued a 48 hour notice, dated 29.05.2023 to the petitioner. Challenging the said notices issued by the second respondent, the petitioner has come up with the present writ petition.

3. Though very many grounds have been raised in the present writ petition, learned counsel for the petitioner submits that despite the petitioner had given a reply dated 22.05.2023 pursuant to the seven days notice dated 17.05.2023 issued by the second respondent, narrating the reason for the delay, the second respondent issued 48 hour notice without affording an opportunity of hearing to the petitioner which is *per se* unsustainable. Hence, the impugned notices issued by the second respondent are liable to be quashed.

4. Learned counsel appearing for respondents submitted that during the pendency of the above writ petition, the termination order issued by the second respondent was withdrawn. Hence, this Court may direct the petitioner to file a reply with regard to the 48 hour notice issued by the second



W.P.No.16509 of 2023

respondent and on receipt of the same the respondents will consider the same and pass appropriate orders.

5. Heard learned counsel appearing on either side and perused the materials placed on record.

6. In view of the subsequent development and also the stand taken by the learned counsel appearing for the respondents, this Court, without going into the merits of the case directs the petitioner to file a reply with respect to the 48 hour notice dated 29.05.2023 issued by the second respondent on or before 30.06.2023 and on receipt of such reply being made by the petitioner, the respondents are directed to pass appropriate orders after affording an opportunity of hearing to the petitioner within a period of two weeks thereafter.

7. This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.06.2023

1/2

Index : Yes / No

Speaking order / Non speaking order : Yes / No

Neutral Citation Case : Yes / No

(rap)

Office to Note : Issue order copy on 26.06.2023



W.P.No.16509 of 2023

WEB COPY

To

1. The Principal Chief Engineer,
General Manager Office,
Southern Railway,
Park Town, Chennai - 600 003.

2. The Deputy Chief Engineer,
Gati Sakthi Unit,
Headquarters Office,
Park Town, Chennai - 600 003.



WEB COPY



W.P.No.16509 of 2023

M.DHANDAPANI, J.

rap

W.P.No.16509 of 2023

23.06.2023

1/2



W.P.No.16509 of 2023

WEB COPY

W.M.P.No.15839 of 2023

in

W.P.No.16509 of 2023

M.DHANDAPANI., J.

Dispensed with for the present.

23.06.2023

2/2

(rap)