



W.P. (MD).No.4570 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.4570 of 2021
and W.M.P(MD)No.3669 of 2021

R.Nixon Alvin

... Petitioner

Vs

1. The District Collector,
Kanyakumari District at Nagercoil.
2. The Superintending Engineer PWD,
Building Construction and Maintenance Circle,
Tirunelveli - 2.
3. The Executive Engineer Pwd,
Building Construction and Maintenance Division,
Nagercoil.
4. M.Sudhakar
5. P.Wali

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in proceedings No. 1220/A2/2018, dated 07/2018, passed by the 3rd respondent and quash the same and consequently direct the 2nd respondent to consider the



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representation, dated 24-11-2018 and thereby direct the 3rd respondent to refund the deducted amount of Rs.5000/- as EOT fine to the petitioner.

For Petitioner : Mr. G.Cenil

For Respondents : Mr. B.Saravanan (R1 to R3)
Additional Government Pleader

Mr.I.Suthakaran (R4)

ORDER

This writ petition was filed challenging the impugned proceedings of the third respondent in No.1220/A2/2018, dated ..07.2018 and for a consequential direction to the second respondent to consider the representation made by the petitioner on 24.11.2018 and to refund the sum of Rs.5,000/- deducted towards EOT fine.

2.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

3.The case of the petitioner is that he was given a contract for construction of school buildings under a scheme. The time frame that was fixed was from 20.09.2017 to 20.05.2018. The petitioner found that



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the work area was very small and hence, the construction materials had to be removed from time to time, in order to complete the work. There was a delay in this regard and ultimately, the dumped stones/waste materials were taken away only during June 2018. Thereafter, the petitioner also completed his work.

4.The grievance of the petitioner is that while fixing the amount payable under contract, a sum of Rs.5,000/- was detected towards the EOT fine. According to the petitioner, this fine is in the nature of punishment and it will have an impact on the petitioner getting the contract in future. Aggrieved by the imposition of fine alone, this writ petition has been filed.

5.In the considered view of this Court, the petitioner is a Class-I PWD contractor. The EOT fine that has been imposed against the petitioner will have a bearing in the future contract that is issued in favour of the petitioner. Therefore, the petitioner ought to have been put on notice before the fine was imposed against the petitioner. Hence, this Court is inclined to interfere with the imposition of EOT fine to the tune



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of Rs.5,000/- against the petitioner.

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6.In the light of the above discussion, the impugned proceedings of the third respondent is interfered with to the extent of imposing EOT fine to the tune of Rs.5,000/- towards the petitioner and the same is set aside. The third respondent is directed to issue a notice to the petitioner assigning the reasons, as to why such a fine is imposed on the petitioner. On receipt of the same, the petitioner shall give his explanation and the same shall be considered and thereafter, the third respondent shall take a decision in accordance with law. This process shall be completed by the third respondent within a period of four weeks from the date of issuance of fresh notice to the petitioner.

7.This writ petition is allowed in the above directions. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
PNM



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N.ANAND VENKATESH, J.

PNM

**ORDER IN
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and W.M.P(MD)No.3669 of 2021**

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