



WP(MD)No.13037 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.11.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.13037 of 2021
and W.M.P.(MD) Nos.10105, 10106 & 10109 of 2021

Sri Abirami Agencies,
Rep. by its Managing Partner,
I.Baskaran

...Petitioner

/Vs./

1. Tamil Nadu Water Supply and Drainage Board,
Rep. by its Managing Director,
31, Kamarajar Salai,
Chepauk, Chennai – 600 005.

2. The Executive Engineer,
TWAD Board,
Maintenance Division,
No.23, Chidambara Nagar,
Tuticorin District.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to Impugned order in Lr.No.WP(M)D No.10010/2020/LC/AE/Dated 09.12.2020 on the file of the Respondent No.1 and quash the same as illegal and consequently directing the Respondents No.1 and 2 to disburse the Interest on the Principal amount of Rs.4,90,231 due to the petitioner for the works completed for supply of materials to the Respondent Tamil Nadu Water supply and Drainage Board within the time period stipulated by this Court.

For Petitioner : Mr.Mohammed Fazil
for M/s.Lajapathi Roy Associates

For R1 & R2 : Mr. Vijayakarthiskeyan



WP(MD)No.13037 of 2021

ORDER

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This Writ Petition has been filed challenging the proceedings of the 1st respondent dated 09.12.2020 and for a consequential direction to the respondents to pay interest on the principal amount of a sum of Rs.4,90,231/- within a time frame fixed by this Court.

2. The genesis of this case is captured in the earlier order passed by this Court in W.P(MD)No.4528 of 2008 dated 19.09.2011 and the relevant portions are extracted herein under:

“2. A tender for supply of materials were called for by the respondents, and the tender submitted by the petitioner was accepted, having quoted the lowest rates. On acceptance of the tender of the petitioner, order of supplies were placed and supplies accepted, but the payments were not released.

3. The petitioner, being aggrieved by the action of the respondents, in not releasing the payment against the supplies, approached this Court vide W.P.No.1479 of 2008, which was disposed of, by directing the respondents, to consider the representation filed by the petitioner, against inaction of the respondents, in not releasing the payment due to the petitioner.

4. The representation of the petitioner, stands rejected vide impugned order, by recording, that the petitioner had quoted exorbitantly high rate,



for the materials supplied, to the Board than the prevailing market rate. It has also been recorded, that the petitioner was called, to negotiate the price on 29.12.2006, but, the order does not disclose, whether there was any negotiation held or not.

5. The only reason for rejecting the representation of the petitioner is, that certain investigations are being carried out, with regard to the tender awarded to the petitioner.

6. This cannot be a ground, to withhold the payment, for the materials supplied, under the duly executed contract. It is true, that normally this court does not in exercise of writ jurisdiction interferes with contractual matters, but in this case, in pursuance to the order passed by this Court, the impugned order has been passed, which on the face of it, patently illegal, amounting to colourable exercise of power, which is hit by Article 14 of the Constitution of India.

7. The learned counsel for the respondents states, that the tender submitted by the petitioner, and the bills submitted by the petitioner do not tally. If this is the case, then the first respondent / Managing Director was bound, to consider the difference in rates, and issue order for payment of bills, as per the tender, but, the release of payment cannot be kept pending, just because the Department has decided, to hold an enquiry against its officials, in awarding tender to the petitioner.

8. For the reasons stated, this writ petition is allowed, the impugned order is set aside, and the matter is remitted back, to the Managing Director of



WP(MD)No.13037 of 2021

Tamil Nadu Water Supply and Drainage Board, to consider the claim of the petitioner, strictly in terms of the tender, which was accepted, and supplies made as per order placed by the respondents. The first respondent is directed to determine the amount payable as per tender, within two months of receipt of Certified Copy of this order and, if any, amount is found due and payable to the petitioner under the tender, it be released within fifteen days thereafter”.

3. Pursuant to the above order, the petitioner was paid the principal amount of Rs.4,90,231/- on 23.01.2012. The grievance of the petitioner is that the work order was completed in the year 2003 and whereas the payment was made only in the year 2012 after a long struggle. Therefore, the petitioner sought for payment of interest. Since the representation made by the petitioner was rejected by the 1st respondent through the impugned proceedings dated 09.12.2020, the same has been put into challenge in this Writ Petition.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 and 2.

5. The main ground that has been put against the petitioner is that there was a delay in settling the bills only due to an investigation that was pending against guilty officials. Ultimately, after the order was passed in W.P(MD)No.



WP(MD)No.13037 of 2021

4528 of 2008 on 19.09.2011, the amount was immediately settled on 23.01.2012

without any delay and therefore, no interest is payable to the petitioner.

6. In the considered view of this Court, it was found that the petitioner is entitled for a sum of Rs.4,90,231/-. This amount ought to have been paid to the petitioner after completion of the work in the year 2003. The petitioner had knocked the doors of this Court at least on 3 earlier occasions right from the year 2008 onwards. The amount claimed by the petitioner is Rs.4,91,307/-. Ultimately it was found that the petitioner was entitled to be paid Rs.4,91,231/-. This Court has already held in W.P(MD)No.4528 of 2008 that some investigation carried out against the officials cannot be a ground to deny the petitioner the payment for the work that he had already undertaken under the contract. Therefore, once the respondents have acknowledged the work done and the amount payable to the petitioner, where there is a delay in settling these amounts, the petitioner will be entitled for payment of interest.

7. It is now well settled that wherever there is a delay in settling the claim, interest has to be paid. In the instant case, there has been an exorbitant delay in settling the amount payable to the petitioner. The petitioner had supplied the materials to the respondent Board in March 2003 and whereas the



WP(MD)No.13037 of 2021

amount was settled in favour of the petitioner only on 23.01.2012 and for this period if interest is not ordered, the petitioner will be put to wrongful loss and it will amount to giving premium to the lapse on the part of the respondent Board, if they are let out without payment of interest for the inordinate delay on their part in settling the claim of the petitioner.

8. In the light of the above discussion, the impugned order in Lr.No. WP(M)D No.10010/2020/LC/AE dated 09.12.2020 on the file of the Respondent No.1 is hereby quashed. There shall be a direction to the respondents to pay interest to the petitioner at the rate of 6% from **01.04.2005 to 23.01.2012** on the principal amount of Rs.4,90,231/-. Interest shall be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

9. In the result, this Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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WP(MD)No.13037 of 2021

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To,

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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.13037 of 2021
and W.M.P.(MD) Nos.10105, 10106 & 10109 of 2021

Dated:
30.11.2023