



W.P(MD)No.11738 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11738 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015
and
W.M.P.(MD)No.6699 of 2016

Sri Abirami Agencies,
Rep. by its Partner,
Baskaran (Contractor).

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Assistant Director,
Town Panchayats,
Tirunelveli,
Tirunelveli District.

3.The Executive Officer,
Selection Grade Town Panchayat,
Veeravanallur, Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records of the 3rd Respondent pertaining to the Impugned Order in Na.Ka.No.260/2013 dated 05.06.2015 and quash the same as illegal and arbitrary and consequently direct the 3rd Respondent to allow the petitioner to continue the work allotted in Integrated Town Development Scheme 2013-2014 dated 10.02.2014 within the time that maybe stipulated by this Court.

For Petitioner : Mr.A.D.Ganeshamoorthy

For Respondents : Mr.N.GA.Nataraj,
Government Advocate.

ORDER

Heard both sides.

2.The petitioner was awarded certain civil contract works under Integrated Urban Development Mission 2013-2014. The petitioner was to carry out three items of work namely, (a) pumping station (b) water tank and (c) installation of well in Thamirabarani River. The petitioner had completed the pumping station work. The water tank work was not fully completed. The well work was not taken up at all. Since the contract works were not completed within the stipulated period, the local body terminated the contract. The termination order is put to challenge in this writ petition.

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3.The writ petition was filed in July, 2015. We are now in September, 2023. Since interim order was not granted, the balance works were completed by the local body through another contractor namely, Vellaipandi. Therefore, this part of the writ prayer has become infructuous. The only issue that has to be considered is whether the petitioner was paid the value of works carried out by him and whether the EMD amount was returned.

4.It is stated by the third respondent that the petitioner had completed works to the tune of Rs.7,69,000/-. However, only a sum of Rs.3,75,000/- has been paid sofar. The written instructions given to the learned Government Advocate is utterly unsatisfactory and insufficient to decide the issue on hand. If due to the fault of the contractor, the contract was cancelled and the remaining works were carried out by another contractor, the contractor who was at fault will have to bear the necessary consequences. It is not known if for this reason, the remaining amount payable to the petitioner was forfeited.



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5.Inspite of repeated queries, the learned Government Advocate insists that only a sum of Rs.22,500/- was forfeited and that the remaining EMD amount was paid to the petitioner. The learned counsel for the petitioner denies the said statement and the petitioner's counsel maintains that EMD amount was never paid to him.

6.The order impugned in this writ petition is sustained by recording the submission of the third respondent made through the learned Government Advocate that EMD amount of Rs.1,08,000/- was paid after deducting a sum of Rs.22,500/-. The third respondent is also directed to pay the balance amount payable to the petitioner for the works done within a period of eight weeks from the date of receipt of a copy of this order.

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

21.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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