



W.P(MD)No.1512 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.1512 of 2016

A.Gnanaboominathan

...Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by tis Principal Secretary,
Department of Rural Development and Panchayat Raj,
Secretariat, Fort St.George,
Chennai.

2.The District Collector,
O/o The District Collector,
Ramanathapuram District,
Ramanathapuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to complete the appeal proceedings initiated subsequent to the appeal made by the petitioner, dated 28.09.2015 within the time frame as stipulated by this Court.

For Petitioner :Mr.S.Rajasekar
For Respondents :Mr.J.K.Jeyaselvam
Government Advocate



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ORDER

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The petitioner, a contractor, who was awarded with a contract for construction of 199 residential houses for the tsunami victims at Ramanathapuram District has preferred an appeal before the first respondent that his contract has been erroneously cancelled by the District Collector, Ramanathapuram and also filed this writ petition for a Mandamus directing the respondent No.1 to complete the appeal proceedings within a reasonable time.

2.The petitioner was awarded with a contract for construction of 199 group houses at Ramanathapuram for the tsunami victims as per Roc.No.1777/DIU3/SDO/2006, dated 30.10.2007. As per the agreement, the construction ought to have been completed on or before 06.02.2009. According to the respondent, the petitioner has not completed the work within the stipulated time and therefore, notice was issued and thereafter his contract was cancelled. Therefore, the petitioner has filed a writ petition in WP(MD) No.7607 of 2012, sought for a direction to the respondent to release the payment



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withheld by the respondent by considering the petitioner's representation dated 09.05.2012. This Court, by order dated 05.10.2012, directed the respondents to consider the petitioner's representation. However, the claim of the petitioner for release of withheld amount has been rejected by the second respondent on the ground that agreement has been terminated and security deposit was also forfeited. Therefore, the petitioner made an appeal before the first respondent on 28.09.2015 and no action has been taken by the respondent. Hence, this petition.

3.The learned counsel appearing for the petitioner submits that similar such appeals have been considered by the first respondent and hence, the same benefit may also be extended to the petitioner also.

4.The learned Government Advocate appearing for the respondents submits that the petitioner was issued with the work order for construction of 199 group houses at Ramanathapuram to complete the work on or before 06.02.2009. Even after extending the time upto



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15.09.2010, no progress was made by the petitioner. Hence, the agreement has been terminated and security deposit was also forfeited to the petitioner. The learned Government Advocate further submits that as per Clause 574 of General Conditions of Contract, the amount incurred towards completion of the remaining work shall be recovered from the Contractor's final bill. Accordingly, a sum of Rs.4,29,755/- has been recovered from the petitioner. Hence, the claim of the petitioner for release of withheld amount has been rightly rejected by the second respondent.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6. The petitioner was awarded with a contract for construction of 199 group houses at Ramanathapuram for the tsunami victims as per Roc.No.1777/DIU3/SDO/2006, dated 30.10.2007. Since the petitioner has not completed the work within the stipulated time, his contract has been cancelled with the forfeiture of security deposit. The learned Government Advocate has taken a specific stand



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that as per Clause 574 of General Conditions of Contract, the amount incurred towards completion of the remaining work shall be recovered from the Contractor's final bill and accordingly, the respondents have deducted the amount. Admittedly, the petitioner's claim is not a statutory appeal, which obligate the respondent to dispose of the appeal. Therefore, this Court is not inclined to entertain this writ petition.

7. Accordingly, this writ petition is dismissed. However, if the dispute pertains to the first respondent department, the representation of the petitioner shall be considered by the respondents, within a period of six months from the date of receipt of a copy of this order. The petitioner shall submit his representation afresh along with a copy of this order. No costs.

10.02.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
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Chennai.

- 2.The District Collector,
O/o The District Collector,
Ramanathapuram District,
Ramanathapuram.



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B.PUGALENDHI, J.

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Order made in
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