



W.P(MD)Nos.18409 to 18418 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos.18409 to 18418 of 2016 and
WMP(MD) Nos.14438,
14439,14440,14441,14442,14443,14444,14445,14446,14447,
13254,13255,13256,13257,13258,13259,13260,13261,13262
&13623 of 2016

M/s.Sri Ayyappan Construction,
No.34, Mangai Valagham,
Uma Nagar,
4th Cross,
M.C.Road, Thanjavur,
Rep by its Managing Partner
M.Ayyappan

... Petitioner

Vs

- 1.State of Tamil Nadu,,
Rep. by its Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai - 600 009.
- 2.The Director General,,
Highways, Guindy, Chennai - 600 025.
- 3.The Superintending Engineer,,
Highways Department (C&m), D.No.1653,
Highways Compound, Trichirappalli - 20.



W.P(MD)Nos.18409 to 18418 of 2016

4. The Divisional Engineer,
Highways Department (C&M),
Panagal Building, Thanjavur.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the price variation recovery order in Ku.No. 189/2014-15/A3/dated 05.08.2016 on the file of the 4th respondent quash the same.

For Petitioners
For Respondents

:No appearance
:Mr.P.T.Thiraviam
Government Advocate

COMMON ORDER

The petitioners are the contractors and they have executed the work in the year 2014 to 2015 for the Highways Department. The petitioners claim that they have completed the work within the specified time and the final bills were also settled to the petitioners. While so, the impugned recovery orders have been passed on 05.08.2016, calling upon these petitioners to pay the additional amount as price variation amount as per G.O.Ms.No.101 Public Works Department, dated 10.06.2009. The petitioners claim



W.P(MD)Nos.18409 to 18418 of 2016

that as per the said Government order, the price variation has to be calculated once in a quarter and in respect of cement and steel for the contract, they can be calculated upto the period of twelve months and in respect of other components also it must be calculated within a stipulated period and also as per the sale price index of the Reserve Bank of India.

2. When these writ petitions were taken up for hearing on 11.10.2023, there was no representation for the petitioners.

3. The learned Government Advocate appearing for the respondents submitted that there is a clause regarding price variation and the said clause was agreed by both the parties as per G.O.Ms.No.60 PW(G2), Department, dated 14.03.2008 and G.O.Ms.No.101 PW (G2) Department, dated 10.06.2009. The petitioners have specifically admitted to the said clause and it forms part of the agreement. As per the said agreement, the price variation was calculated and the bills were raised to the petitioners. Notice has



W.P(MD)Nos.18409 to 18418 of 2016

been issued to the petitioners by the Divisional Engineer (H) C &M, Thanjavur vide Memo No.189/2014-15/A3, dated 05.08.2016. Then the price adjustment has been made based on the proceedings No. 189/2014-15/A3, dated 26.08.2016. It is a routine procedure followed by the Department and all the contractors are aware of the proceedings. The said price variation policy is being adopted since its implementation from the year 2008.

4.Since there was no representation for the petitioners, these writ petitions were ordered to be listed on 13.10.2023 under the caption 'for dismissal.'

5.Today(13.10.2023), when these writ petitions are taken up for hearing, there is no representation for the petitioners.

6.The learned Government Advocate appearing for the respondents submits that the petitioners have paid the price variation amount as per the Government Orders in G.O.Ms.No.60 PW(G2),



W.P(MD)Nos.18409 to 18418 of 2016

Department, dated 14.03.2008 and G.O.Ms.No.101 PW (G2)

Department, dated 10.06.2009 and therefore nothing survives in these writ petitions. Copy of the proceedings of the Divisional Engineer, Highways Department (C&M), Thanjavur in Ka.No. 10/2023/A2, dated 12.10.2023 has also been produced before this Court.

7. Recording the submission made by the learned Government Advocate, these writ petitions are dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.10.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J

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Common Order made in
W.P(MD) Nos.18409 to 18418 of 2016 and
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