

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, 1945

WP(C) NO. 18233 OF 2020

PETITIONER/S:

MITES LTD.

(A GOVERNMENT OF INDIA ENTERPRISE), MITES BHAWAN, PLOT NO.1, SECTOR 29, GURGAON, HARYANA - 122 001, REP. BY ITS SENIOR DIVISION GENERAL MANAGER.

BY ADV P.SHANES METHAR

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 THE PRINCIPAL SECRETARY TO GOVERNMENT OF KERALA
DEPARTMENT OF IRRIGATION AND WATER RESOURCES, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.
- 3 THE CHIEF ENGINEER (IRRIGATION AND ADMINISTRATION)
PUBLIC OFFICE BUILDING, MUSEUM, THIRUVANANTHAPURAM - 695
033.
- 4 THE SUPERINTENDING ENGINEER
OFFICE OF THE SUPERINTENDING ENGINEER, IRRIGATION SOUTH
CIRCLE, PMG JUNCTION, THIRUVANANTHAPURAM - 695 033.
- 5 ADDL.R5.THE KERALA STATE POLLUTION CONTROL BOARD
HEAD OFFICE, PATTOMP.O., THIRUVNANTHAPURAM - 695004
REPRESENTED BY ITS CHAIRMAN.
- 6 ADDL.R6. KERALA WATER AUTHORITY
JALABHAVAN, VELAYAMBALAM, PMG IN. P.O.,
THIRUVANANTHAPURAM - 695033 REPRESENTED BY ITS MANAGING
DIRECTOR.
- 7 ADDL.R7.THE THIRUVANANTHAPURAM MUNICIPAL CORPORATION
LMS VELLAYAMBALAM ROAD, LMS COMPOUND PMG JN.P.O.,
THIRUVANANTHAPURAM - 695033 REPRESENTED BY ITS
SECRETARY. ADDL. R5 TO 7 ARE IMPEADED AS PER ORDER

DATED 16.11.2021. IN IA NO.1/2021.

BY ADVS.

SRI.VENUGOPAL V. - GOVERNMENT PLEADER

SHRI.P.BENJAMIN PAUL, SC, KERALA WATER AUTHORITY

SRI.P.K.MANOJKUMAR, SC,

N.NANDAKUMARA MENON (SR.)

P.K.MANOJKUMAR

ADVOCATE GENERAL OFFICE KERALA

P.M.JOHNY

SUMAN CHAKRAVARTHY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner is a Government of India Enterprises. It entered into Ext.P2 agreement with the Government of Kerala for providing a detailed study report and rectification measures for Flood Mitigation and Pollution Abatement in respect of Killi and Karamana rivers in Thiruvananthapuram District. According to the petitioner, though it has submitted its reports, the payments due to it in terms of Ext.P2 agreement have not been paid so far.

2. The learned Government Pleader submits, with reference to paragraph 2 of the counter affidavit, that as per the agreement, the report shall be placed in accordance with the guidelines of the Ministry of Environment, Forests and Climate Change, Government of India and in accordance with the National River Conservation Plan which has to be followed in preparing the report. It is submitted that the report was not in tune with those guidelines except in certain parameters. It is also submitted that the final report submitted by the petitioner has to be approved by the stakeholders of the project such as Pollution Control Board, Municipal Corporation of Thiruvananthapuram and the Sewerage Division of the Kerala Water Authority. It is submitted with reference to paragraph 5 that an amount of Rs.2,16,15, 255/- has so far been paid to the petitioner and the balance amount payable is only

Rs.68,84,745/- and service tax on the said sum. It is submitted that even in terms of Ext.P2 agreement, the final amount can be released only after the report is approved by the Government.

3. The learned counsel appearing for the petitioner would submit that the contention that the report was not in accordance with the National River Conservation Plan is not correct. It is submitted that the petitioner has placed Ext.P14 (produced along with the reply affidavit) before the Superintending Engineer, Irrigation Department showing that the report is in accordance with the National River Conservation Plan. It is also pointed out that the Chief Engineer, Irrigation Department has through Ext.P15 requested the Government to release the payment to the petitioner.

4. Having heard the learned counsel for the petitioner, the learned Government Pleader and the learned Standing Counsel appearing for the Corporation of Thiruvananthapuram, I am of the view that the 2nd respondent has to take a decision in the matter regarding release of the balance amount to the petitioner on the basis of the terms contained in Ext.P2 without further delay. If any reports are to be placed by additional respondents 5, 6 and 7 (The State Pollution Control Board, the Kerala Water Authority and the Thiruvananthapuram Municipal Corporation), the 2nd respondent shall

ensure that those reports are placed before him within a period of one month from the date of receipt of a certified copy of this judgment. The 2nd respondent shall, thereafter, take a final decision in the matter after affording an opportunity of hearing to the petitioner, within a period of three months thereafter. Based on the decisions to be taken, if any payments are found due to the petitioner, the same shall also be released to the petitioner.

The writ petition is disposed of with the above direction.

sd/-

GOPINATH P.

JUDGE

acd

APPENDIX OF WP (C) 18233/2020

PETITIONER EXHIBITS

EXHIBIT P1 TRUE COPY OF THE GO (RT) NO.658/12/WRD
DATED 02.06.2012.

EXHIBIT P2 TRUE COPY OF THE AGREEMENT
NO.38/SE/ISC/2012-13 DATED 10.10.2012
BETWEEN THE PETITIONER AND THE RESPONDENT
TOGETHER WITH LETTER OF AWARD OF WORK
NO.D3-257/SE/ISC/2011 DATED 10.08.2012.

EXHIBIT P3 TRUE COPY OF THE LETTER NO.W3-30013/11
DATED 06.02.2012 OF THE RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE SUPPLEMENTAL AGREEMENT
DATED 26.07.2013.

EXHIBIT P5 TRUE COPY OF THE COMPLETION CERTIFICATE
TOGETHER WITH COVERING LETTER NO.D3-
1083/SE/ISC/2012 DATED 07.09.2019 OF THE
4TH RESPONDENT.

EXHIBIT P6 TRUE COPY OF THE LETTER NO.RITES/P&WR/133
DATED 19.06.2017.

EXHIBIT P7 TRUE COPY OF THE STATEMENT OF ACCOUNT.

EXHIBIT P8 TRUE COPY OF THE CORRESPONDENCES
ADDRESSED TO THE 2ND RESPONDENT.

EXHIBIT P9 TRUE COPY OF THE CORRESPONDENCES
ADDRESSED TO THE 3RD RESPONDENT.

EXHIBIT P10 TRUE COPY OF THE CORRESPONDENCES
ADDRESSED TO THE 4TH RESPONDENT.

EXHIBIT P13 TRUE COPY OF THE LETTER NO.D-3-
1083/SE/ISC/2012 (PART-II) DATED
03.12.2019 OF THE 4TH RESPONDENT

EXHIBIT P14 TRUE COPY OF THE LETTER
NO.RITES/UE/POLLUTION
ABATEMENT/2630/2014/67 DATED 12.03.2015

**EXHIBIT P15 TRUE COPY OF THE LETTER NO.W3-30013/11/DB
DATED 30.03.2016 OF THE 3RD RESPONDENT**

**EXHIBIT P16 TRUE COPY OF THE CHART NARRATING PAYMENTS
MADE BY THE RESPONDENT**

RESPONDENTS EXHIBITS

**EXT.R4 (a) : TRUE COPY OF LETTER NO.D3-1083/SE/ISC/2012
(PART II) (b) DATED 01.10.2019.**