IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

MONDAY, THE 8TH DAY OF JANUARY 2024 / 18TH POUSHA, 1945

WP(C) NO. 42005 OF 2023

PETITIONER:

MEIL NEELESHWARAM ROADWAYS PRIVATE LIMITED
UNIT NO.22, TIE, BALA NAGAR, HYDERABAD, RENGAREDDI,
TELANGANA, REPRESENTED BY ITS AUTHORISED SIGNATORY
SHRI. ALLARAPU MURALI KRISHNA, PIN - 500037

BY ADVS.
P.SHANES METHAR
N.KRISHNA PRASAD

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
DEPT. OF REVENUE AND LAND SURVEY
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001

2 COMMISSIONER OF LAND REVENUE
O/O. COMMISSIONER OF LAND REVENUE PUBLIC OFFICE
BUILDING, MUSEUM JUNCTION
THIRUVANANTHAPURAM, PIN - 695001

3 DISTRICT COLLECTOR, KANNUR
O/O. THE DISTRICT COLLECTOR, COLLECTORATE CAMPUS,
COLLECTORATE RD, THAVAKKARA, KANNUR, PIN - 670002

4 UNION OF INDIA
REPRESENTED BY ITS SECRETARY, DEPT. OF ROAD TRANSPORT &
HIGHWAYS TRANSPORT BHAWAN, 1, PARLIAMENT STREET
NEW DELHI, PIN - 110001

5 NATIONAL HIGHWAYS AUTHORITY OF INDIA - NHAI
REPRESENTED BY ITS CHAIRMAN, G 5&6, SECTOR-10,
DWARKA, NEW DELHI, PIN – 110075

BY ADV.SMT.DEEPA NARAYANAN, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 08th day of January, 2024

Petitioner has approached this Court seeking to quash condition No.1 in Ext.P2 No Objection Certificate.

2. Petitioner is a Private Ltd. Company incorporated under the provisions of the Companies Act, 2013 for the purpose of undertaking development, maintenance and management of six Laning of Neeleshwaram to Taliparamba section of NH 17 (New NH 66) from Ch. 94+540 (existing km. 96+450) to Ch. 134+650 (existing km. 137 + 900) in the State of Kerala on Hybrid annuity mode under Bharatmala Pariyojana (Project). M/s.Megha Engineering and Infrastructure Ltd., had successfully bid for the project and thereafter with the approval of the National Highway Authority of India vested its right to undertake the project with the petitioner and Ext.P1 agreement was entered into between the petitioner and the fifth respondent in this regard. For the purpose of undertaking activities in accordance with Ext.P1 agreement, the petitioner was permitted to excavate soil from the Government land in

Kaerivallur and Kunhimangalam Village in Payyanur Taluk of Kannur District and Ext.P2 No Objection Certificate was issued in favour of the petitioner. However, condition No.1 of Ext.P2 stipulates that excavation would commence only after the petitioner makes a payment of seigniorage as stipulated in G.O.(P).No.59/15 dated 02.02.2015. Petitioner, relying on Rule 20 of the Kerala Land Conservancy Rules, 1958, submits that they are exempted from payment of seigniorage value if the cost of such articles has not been taken into account in working out the valuation of work covered by the contract. Rule 20 of the Kerala Land Conservancy Rules, 1958 is extracted below:

> *"20. Quarrying by contractors engaged by the Government Departments will be free of seigniorage fee if the cost of such articles has not been taken into account in working out the date for the valuation of work covered by the contract."*

3. Petitioner submits that the cost of articles has not been taken into account in working out the valuation of work covered by the contract and therefore, the petitioner is entitled for exemption under Rule 20 of the Kerala Land Conservancy Rules, 1958. Therefore, the petitioner preferred Ext.P3 representation before the fifth respondent

Project Director stating that they are not liable to pay seigniorage on account of the exemption under Rule 20 of the Kerala Land Conservancy Rules, 1958. Finding merits in the contention of the petitioner, the fifth respondent issued Ext.P4 letter to the third respondent District Collector stating that the project is purely a Government project and that the petitioner is entitled to the benefit of Rule 20 of the Kerala Land Conservancy Rules. In such circumstances, the District Collector, Kannur, sought clarification from the second respondent - Land Revenue Commissioner as per Ext.P5 as to whether the petitioner is entitled for exemption from the event of seigniorage under Rule 20 of the Kerala Land Conservancy Rules. To Ext.P5 letter dated 20.03.2023, the second respondent - Land Revenue Commissioner issued Ext.P6 dated 19.06.2023 directing that the seigniorage is to be waived for contractors working on Government contracts provided that the cost of articles is not taken into account towards valuation of the contract. Thereupon the third respondent - District Collector replied the second respondent as per Ext.P7 dated 26.09.2023 that the petitioner has certified that the cost of articles has not

been considered on the date of valuation and that the Project Director, NHAI has clarified that the project is a Government contract. In view of the same, the petitioner would contend that the condition No.1 imposed in Ext.P2 is liable to be interfered with.

4. Heard the learned Government Pleader also.

5. Learned Government Pleader, upon instructions, submitted that it is true that going by Rule 20 of the Kerala Land Conservancy Rules, if the cost of articles is not taken into account towards valuation of the contract, the contractor is entitled for exemption from seigniorage value and that in the present case as per communication of the District Collector, the said value of the cost of articles is not taken into consideration towards valuation of the contract as is evident from Ext.P7.

6. Therefore, after hearing both sides and taking into consideration the facts and circumstances stated above and especially in the light of Rule 20 of the Land Conservancy Rules, I am of the view that the matter requires reconsideration at the hands of the third respondent.

In the facts and circumstances, the Writ Petition is disposed of directing the third respondent to consider and finalise the request made by the petitioner for exemption from payment of seigniorage value on the basis of Rule 20 of the Land Conservancy Rules, taking into consideration Exts.P5 and P7 and after affording an opportunity of being heard to the petitioner and finalise the same within an outer limit of two weeks from the date of receipt of a copy of the judgment.

Sd/-

VIJU ABRAHAM
JUDGE

csl

APPENDIX OF WP(C) 42005/2023

PETITIONER'S EXHIBITS

ExhibitP1	A TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND THE FIFTH RESPONDENT 21.12.2020
ExhibitP2	A TRUE COPY OF THE PROCEEDINGS NUMBER DCKNR/11192/2021-DM6 DATED 11.10.2022 ISSUED BY THE THIRD RESPONDENT DISTRICT COLLECTOR
ExhibitP3	A TRUE COPY OF THE REPRESENTATION DATED 09.03.2023 SUBMITTED BY THE PETITIONER BEFORE THE PROJECT DIRECTOR OF THE FIFTH RESPONDENT
ExhibitP4	A TRUE COPY OF THE LETTER NO. 12496/NHAI/PIUKANNUR//2023/368 DATED 14.03.2023 OF THE FIFTH RESPONDENT ADDRESSED TO THE DISTRICT COLLECTOR KANNUR
ExhibitP5	A TRUE COPY OF THE LETTER NO. DCKNR/11192/2021-DM6 DATED 20.03.2023 OF THE THIRD RESPONDENT, DISTRICT COLLECTOR KANNUR ADDRESSED TO THE SECOND RESPONDENT
ExhibitP6	A TRUE COPY OF THE LETTER NO. LR/7508/2022-LR(K3) DATED 19.06.2023 OF THE SECOND RESPONDENT, LAND REVENUE COMMISSIONER
ExhibitP7	A TRUE COPY OF THE LETTER REF NO. DCKNR/11192/2021-DM6 DATED 26.09.2023 OF THE THIRD RESPONDENT, DISTRICT COLLECTOR KANNUR ADDRESSED TO THE SECOND RESPONDENT