IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 15TH DAY OF JULY 2024 / 24TH ASHADHA, 1946

WP(C) NO. 23831 OF 2024

PETITIONER:

PRAKASAN T. K. AGED 53 YEARS S/O. KUMARAN T.I.,
RESIDING AT THEKKEDATH HOUSE, KUNDALIYUR, THRISSUR,
PIN - 680616
BY ADVS. ALINA ANNA KOSE P.I.RAHEENA KARTHIKA GANESH
VISHNU PRASAD N.K. SANDHRA MARIA SEBASTIAN M.R.HARIRAJ
(SR.)(K/1773/1999)

RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY SECRETARY, DEPARTMENT OF FISHERIES AND HARBOUR ENGINEERING, THIRUVANANTHAPURAM, PIN - 695009
2 CHIEF ENGINEER DEPARTMENT OF HARBOUR ENGINEERING, MANACAUD P.O , THIRUVANANTHAPURAM, PIN - 695009
3 SUPERINTENDING ENGINEER HARBOUR ENGINEERING CENTRAL CIRCLE, PARAMARA ROAD, KOCHI, PIN - 682018
4 EXECUTIVE ENGINEER HARBOUR ENGINEERING, ERNAKULAM DIVISION, MUNAMBAM, PALLIPPURAM P.O, ERNAKULAM, PIN - 683515
5 ASSISTANT EXECUTIVE ENGINEER HARBOUR ENGINEERING CHETTUVA SUB DIVISION, CHETTUVA KANDALIYOOR P.O, TRISSUR, PIN - 680616

SMT. DEEPA NARAYANAN, SR. GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 15th day of July, 2024

Petitioner was awarded the tender for collection of toll from vessels, vehicles and people entering Chettuva Fisheries Harbour, Thrissur. The agreement was for a period of one year. The petitioner's grievance is that, one of the two wharfs in the harbour was demolished, affecting the inflow of vessels, vehicles and people to the harbour. The petitioner, therefore, sought extension of the contract period by four months. The contract period having been extended by only 30 days, this writ petition is filed.

2. Learned Senior Counsel appearing for the petitioner submits that the petitioner is entitled for

extension by at least four months, since one of the Wharfs was not operational from November 2023 to June 2024. Alternatively, it is contended that the period should have been extended by at least 90 days, as recommended in Exhibit P4 report.

3. Learned Government Pleader would submit that the petitioner having partaken in the tender proceedings, fully knowing the terms and conditions, he cannot seek extension of the contract period.

4. Having heard the learned counsel on either side, I am of the opinion that in so far as a responsible authority has made a recommendation in Exhibit P4, it is only appropriate for the superior authority to consider that recommendation for extension, before taking a final decision.

5. The writ petition is disposed of, directing the 2nd respondent to pass appropriate orders on Exhibit P6 representation filed by the petitioner, after adverting to his contentions and the recommendations

in Exhibit P5. Such consideration shall be made, independent of the fact that the petitioner has been awarded the contract for the subsequent year also. If the decision is in the petitioner's favour, the extended period shall be adjusted against the subsequent contract period.

Sd/-
V.G.ARUN
JUDGE

SSK/15/07

APPENDIX OF WP(C) 23831/2024

PETITIONER EXHIBITS

Exhibit P1(a)	A TRUE COPY OF THE PRELIMINARY AGREEMENT BETWEEN THE PETITIONER AND THE RESPONDENTS DATED 08/05/2023 ALONG WITH THE E-TENDER DEED
Exhibit P1(b)	A TRUE COPY OF FINAL AGREEMENT DATED 05/09/2023
Exhibit P2	A TRUE COPY OF THE REPRESENTATIONS DATED 04/04/2024, SUBMITTED BEFORE THE 2ND RESPONDENTS
Exhibit P3	A TRUE COPY OF THE REPRESENTATIONS DATED 04/04/2024, SUBMITTED BEFORE THE 4TH RESPONDENTS
Exhibit P4	A TRUE COPY OF LETTER NO. D1-07/2011/AEE(C) DATED 30/04/2024 ISSUED BY THE 5TH RESPONDENT
Exhibit P5	A TRUE COPY OF ORDER NO. A2/854/2023/EE DATED 15/06/2024 ISSUED BY THE 4TH RESPONDENT
Exhibit P6	A TRUE COPY OF REPRESENTATION DATED 28/06/2024 SUBMITTED TO THE 2ND RESPONDENT

SSK //TRUE COPY// PA TO JUDGE