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W.P.No.11074 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11074 of 2024
and
W.M.P.Nos.12158, 12159 of 2024

M/s.AM. Builders,
Rep. by its Partners Mr.A.Murugan,
S/o. Angamuthu,
No.1, Sakthi Nagar West,
Thindal, Erode,
Tamil Nadu – 638012.

... Petitioner

Vs.

The Union of India,
Rep. by Chief Engineer,
Military Engineering service,
Headquarters, Chennai Zone,
Island Ground, Anna Salai,
Chennai – 600 009.

... Respondent

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarifid Mandamus, calling for the records of the impugned cancellation order bearing number 82939/160/E8 dated 11.03.2024 on the file of the respondent and quash the same and



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3. The learned counsel for the petitioner would submit that the respondents caused obstructions for completion of the work in entirety and therefore the petitioner cannot be blamed for non-completion of the works within the time stipulated. The petitioner is ready to complete the work within a period of two months but without affording any further opportunity, respondents issued the impugned order of cancellation of contract. Thus, the present writ petition came to be instituted.

4. The learned counsel for the petitioner would draw the attention of this Court with reference to the letter issued by the respondents on 13.03.2023 wherein the respondents have stated that the CCTV cameras, cables and other installation are to be vacated, enabling the petitioner to complete the work. However, the said letter was issued on 13.03.2023 and the first cancellation of contract was issued on 9.01.2024. Therefore, the said letter is of no assistance to the petitioner for the purpose of establishing his case.

5. The learned Central Government Standing Counsel, appearing on behalf of the respondent, would oppose by stating that the fact remains that opportunities were granted to the petitioner to complete the works on



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earlier occasion. Despite the fact that the time was extended by revoking the earlier order of termination of contract, the petitioner failed to complete the works and therefore, the impugned order of cancellation of contract was issued.

6. In this context, it is relevant to consider the cancellation of the contract issued by the respondents in proceeding dated 09.01.2024. Thus, the contract was cancelled initially on 09.01.2024. Thereafter, the petitioner made a representation on 12.01.2024 for revocation of cancellation order and for permitting them to complete the works on or before 29.02.2024. Thus, it is clear that the petitioner made a commitment before the respondent on revocation of cancellation order that the petitioner would complete the works on or before 29.02.2024. The respondents had given an opportunity to the writ petitioner and accordingly, revoked the earlier order of cancellation of contract.

7. In proceeding dated 12.01.2024, the respondents have clearly stated as follows

“3. Your firm is hereby given last opportunity to complete the balance work by 29 Feb 2024 as per your undertaking submitted along with letter dated 12 Feb



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2024. Please note that if your firm fails to achieve progress of work as per programme/milestones committed by your firm, Government shall be at liberty to again cancel the contract at any time.”

8. In response the petitioner as issued a letter dated 06.03.2024 as under;

“2. We sincerely apologize for not being able to complete all of our work by 29-02-2024. Despite our sincere and great effort, we would like to inform you of the following work done at our site (details attached). We have almost completed all of the tasks except for the following, which will be completed by 25-03-2024.”

9. Therefore, the petitioner was provided with an opportunity to honour his own commitment made before the respondents and even thereafter, the petitioner has not completed the works. Finally the impugned order dated 11.03.2024 was issued cancelling the contract. Therefore, now the petitioner cannot place before this Court that they are ready to complete the works. The respondent themselves afforded an opportunity to complete the works even as per the date assured by the petitioner through his representation. When the petitioner has failed to honour his own commitment made, now he cannot turn around and seek



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further time for the purpose of completion of the contract works.

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10. The contract was originally cancelled by the authorities on 09.01.2024. Thereafter, the petitioner has given an assurance to the respondents that they will complete the work on or before 29.02.2024 and accepting his assurance the earlier cancellation order was revoked but the petitioner failed to honour his commitment and finally the impugned order dated 11.03.2024 has been issued.

11. Allegations relating to contractual obligations, which all are disputed facts, cannot be adjudicated in a writ proceedings. The power of judicial review, under Article 226 of the Constitution of India, is to ensure that the process through which the decision has been taken by the respondent, but not the decision itself. Since the arbitration clause is available in the contract, the petitioner is at liberty to invoke the same to redress his grievances if any exist.



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12. For all these reasons the writ petition stands devoid of merits

and stands dismissed. However, there shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes

Speaking Order

Neutral Citation : Yes

(sha)

To

The Union of India,
Rep. by Chief Engineer,
Military Engineering service,
Headquarters, Chennai Zone,
Island Ground, Anna Salai,
Chennai – 600 009.



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S.M.SUBRAMANIAM. J.,

(sha)

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