



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.11611 of 2020
and W.M.P.No.14237 of 2020

M/s.Rock & Arch Constructions (India) Pvt., Ltd.,
Represented by its Managing Director,
Mr.P.K.Duraisamy
No.72, MudaliThottam, Veerappan Chatram Post,
Erode – 638 004.

.. Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003.

2.The Superintending Engineer,
Storm Water Drain Department,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in S.W.D.C.No.B3/0129/2020 and quash the impugned proceedings dated 28.01.2020 and further direct the first respondent and second respondents to release the payment for the price escalation amounts to the petitioner in respect of the bills received for the construction of integrated storm water drains relating to Packages 28 and 29.



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For Petitioner	.. Mr.P.J.Rishikesh
For Respondents	.. Mr.G.T.Subramaniam Standing Counsel

ORDER

This writ petition has been filed in the nature of certiorarified mandamus seeking interference with proceedings of the first respondent, The Commissioner, Greater Chennai Corporation, dated 28.01.2020 and quash the same and direct the first respondent and also the second respondent, The Superintending Engineer, Storm Water Drain Department, Greater Chennai Corporation, to release payment for the price escalation amounts to the petitioner with respect to the bills received for the construction of Integrated Storm Water Drains in Packages 28 and 29.

2.The entire issue relates to works done in the year 2018-2019 by the petitioner herein who had been awarded a tender for construction of Integrated Storm Water Drains in Virugambakkam and Arumbakkam Water Shed of Cooum Basin which is Package No.28 and also for construction of Storm Water drains in Virugambakkam & Arumbakkam Water shed of Cooum Basin, but in a different area which is Package No.29.

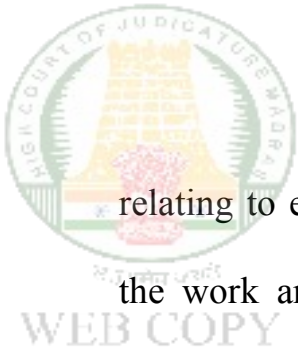


3. It is contention of the petitioner, the registered civil works contractors, that they had discharged the work with due diligence and to the satisfaction of the respondents. However, it is stated that there has been an escalation of the price and after completion of the works, the petitioner have demanded a payment for such escalation.

4. The respondents have on the other hand denied and disputed their liability to pay any escalation cost. By the impugned notice, they had rejected the request for payment of escalation. Questioning that particular notice, the petitioner has filed the present writ petition.

5. The Court wanted a copy of the agreement between the petitioner and the respondent which they had entered into at the time of award of tender. The relevant portion of the agreement alone had been produced and Clause No.24 is very clear that in case of disputes the parties can be referred for arbitration. The impugned notice is dated 28.01.2020, the writ petition has been filed on 17.08.2020.

6. It is contended on behalf of the respondents that even while filing the writ petition, the petitioner had long passed the time within which they could have initiated the arbitration proceedings. But at any rate, it is only appropriate that all the issues are adjudicated by the appropriate authority. The writ Court cannot examine the facts



relating to escalation of price, whether, the petitioner was responsible for the delay in the work and therefore, the respondents are not labile to pay the escalated cost or whether the petitioner had performed the work with due diligence and therefore, is entitled for escalated cost.

7. These are all issues beyond the purview of this Court. However, granting small window for the petitioner to initiate appropriate proceedings relating to arbitration on or before 29.11.2024 is granted. If it is so initiated, the respondents may examine such petition and proceed in accordance with Clause No.24 of the agreement between the petitioner and the respondents. If the petitioner fails to raise a dispute on or before 29.11.2024, then the notice would stand.

8. This writ petition stands disposed of without interfering with the notice issued by the 1st respondent. No Costs. Consequently, connected miscellaneous petition is closed.

18.11.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
ssr



To

WEB COPY

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003.

2. The Superintending Engineer,
Storm Water Drain Department,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.



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C.V.KARTHIKEYAN,J.

ssr

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