



W.P.No.24187 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

W.P.No.24187 of 2021

P. Janakiraman

... Petitioner

Vs

1. The Commissioner
Greater Chennai Corporation
Chennai 600 003.
2. The Superintending Engineer,
Bus Route Roads Department,
Greater Corporation of Chennai
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 records relating to the impugned order dated 09.09.2021 made in B.R.R.C No.228/2021 passed by the 2nd respondent quash the same and consequently direct the respondents to disburse the balance final bill amount of Rs.30,00,000/- due towards 2.5% of the value of the work



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done under the letter of acceptance dated 23.05.2015 in B.R.R.C.No.B1/0276/2015 dated 23.03.2015 and further sum of Rs.13,22,529/- spent for Tack Coat with interest.

For Petitioner : Mr.N.Manokaran

For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 09.09.2021 made in B.R.R.C No.228/2021 passed by the 2nd respondent quash the same and consequently direct the respondents to disburse the balance final bill amount of Rs.30,00,000/- due towards 2.5% of the value of the work done under the letter of acceptance dated 23.05.2015 in B.R.R.C.No.B1/0276/2015 dated 23.03.2015 and a further sum of Rs.13,22,529/- spent for Tack Coat with interest.

2. In the affidavit filed in support of the writ petition it had been stated that the petitioner, a Class I Contractor had participated in a tender which was issued on 13.02.2015 for strengthening and relaying the road



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with DBM and CBC after Cold Milling by Paver finisher using plastic waste along with traffic improvement work at 16 Bus route roads in Zone 10 and 13 for the year 2014 - 2015. The petitioner had quoted a sum of Rs.13,32,51,420/- and was issued with a letter of acceptance and also issued with work order. The petitioner had commenced the work. It is contended that he had completed the work without any defect. The security deposit is normally retained by the respondents and adjusted with final balance of 2.5% of the total value. However, the security deposit was not returned back by the respondents. The petitioner had made a representation. The impugned order was then issued on 09.09.2021 stating that Rs.30,00,000/- had been withheld since the quality of the work done by the petitioner was not up to the standard.

3. With respect to the amount of Rs.13,22,529/- it had been stated that the work was necessitated owing to the fact that the work done by the petitioner was not in accordance with the required standards and therefore relaying was conducted. There was an audit objection also for release of 2.5% of the final balance amounting to Rs.30,00,000/-.



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4. A counter affidavit had been filed in the writ petition, wherein it had been stated that audit objection had been cleared and that the amount of Rs.30,00,000/- which was the final amount to be paid to the petitioner for the work done would be released within a period of three weeks but however the respondents have raised a serious objection for grant of any order relating to the additional work of Rs.13,22,529/-. In the impugned order the date when the additional work was done or rather the date of inspection of the work already done were not mentioned. The nature of defects found in the work had also not been mentioned. It was only stated that there was negligence on the part of the petitioner herein.

5. The learned counsel for the petitioner placed reliance on report dated 03.04.2021 given by the petitioner herein addressed to the Commissioner wherein he had enclosed the particulars relating to the work done with respect to each road for which the contract was awarded to him. He had also mentioned that the entire work had been recorded in the measurement book, which had been periodically verified by the



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respondents. It is therefore contended by the learned counsel that there was no negligence on the part of the petitioner herein.

6. The issue raised is a mixed question of fact and law. It is only appropriate that the petitioner forwards a representation to the respondents with respect to the additional claim of Rs.13,22,529/- and the respondents reply to such representation. The petitioner may be given an opportunity of being heard on this aspect. The measurement books maintained by the petitioner and periodically inspected by the respondents may also be examined before taking a final decision on the claim of the petitioner for the release of Rs.13,22,529/-. That amount alone is not adjudicated by this Court.

7. A direction is however issued that the sum of Rs.30,00,000/- should be refunded to the petitioner or on before 10.01.2025. The learned counsel for the petitioner insisted that the amount of Rs.30,00,000/- should be refunded with interest. However, it is contended on behalf of the respondents that for a period of two years the enquiry relating to the



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work done by the petitioner was pending with the Directorate of Vigilance and Anti Corruption and later after that issue was cleared, the audit objection was raised in the year 2017 – 2018 and the audit objection was cleared only in the year 2024. The petitioner by giving a representation may also demand interest to be paid for the delay release of Rs.30,00,000/- and the respondents shall apply their mind and pass orders whether they consider grant of interest or not. That order can be independently questioned by the petitioner.

8. With the above observations and directions, the writ petition is disposed of. No costs.

13.12.2024

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Index: Yes/No
Speaking order / Non speaking order



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C.V.KARTHIKEYAN, J.

dpq

To

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Bus Route Roads Department,
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