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W.P.No.25446 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25446 of 2024

M/s.Thilagavathy Constructions,
Rep. by its Managing Partner,
G.Thilagavathy,
No.43, VAK Nagar, Arani – 632 301. Petitioner

Vs

1. The Commissioner of Municipal Administration,
Chennai – 600 028.

2. The Commissioner,
Arani Municipality, Arani.

3. The Assistant Engineer,
Arani Municipality, Arani. Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent herein to forthwith pay the sum of Rs.1,74,90,000/- towards the work which was done by the petitioner pursuant to the work order dated 22.11.2019 together with interest @ 12% per annum in 3 installments starting from September 2024 as per the representation of the petitioner dated 20.08.2024.

For Petitioner : Mrs.A.L.Gandhimathi



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Senior Counsel
for Mr.L.Palanimuthu

For R1 : Dr.T.Seenivasan
Special Government Pleader

For R2 & R3 : Mr.P.Srinivas
Standing Counsel

ORDER

This Writ Petition has been filed for a direction directing the second respondent to pay a sum of Rs.1,74,90,000/- towards the work which was done by the petitioner pursuant to the work order dated 22.11.2019 together with interest.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner is a Class I Contractor having executed various works in various Municipalities. The petitioner was awarded work order as per the tender notification dated 14.11.2019 for allotting BT surface with storm water drain at Mahalakshmi Nagar and Thandumariamman Koil Street, Thathoor Street in Ward No.24, Amman Nagar, Balaji Nagar Extension and Govindan Street Extension in Ward No.45, Baskar Nagar, Jayalakshmi Nagar, VAK Nagar Extension,



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Thenaruvi Nagar in Ward No.30, 4th South Street (GH Road) in Ward No.31 and Pallikuda Street (Muthumariamman Koil) in Ward No.38 in Arani Municipality.

4. As per the work order, the petitioner had completed the entire work and submitted bills before the second respondent and the same was also duly approved by the second respondent to the tune of Rs.1,80,90,000/- after deducting GST. However, the petitioner was paid so far only Rs.6,00,000/-. In spite of repeated request, the petitioner was not disbursed with the amount which was already spent by the petitioner toward work order. Therefore, the petitioner was constrained to file a writ petition before this Court in W.P.No.3900 of 2024. While disposing the said writ petition, this Court, by an order dated 23.02.2024, issued the following directions :-

(i) The concerned authority shall immediately examine the representation dated 09.01.2024 made by the petitioner including ascertaining as to whether the petitioner would be entitled for the relief claimed.

(ii) If it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the petitioner requiring the same to be furnished within a time frame of not less than 10 days for the same.



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(iii) in that event of not being satisfied with the requirements even thereafter an enquiry shall be conducted affording full opportunity of personal hearing to the petitioner and all other persons concerned to explain their position in that regard.

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment.

(v) if the petitioner is found entitled to any monetary benefits, the same shall be paid along with working sheet showing its calculation within a period of three months from the date of passing of that order ; and

(vi) the report of such compliance shall be filed by 31.08.2024 before the Registrar (Judicial) of the Court.

5. Thereafter, the second respondent passed an order dated 02.08.2024, thereby admitted the liability to the tune of Rs.2,00,00,000/- in which after deducting Rs.26,00,000/- the remaining amount of Rs.1,74,00,000/- was agreed to be paid by way of thirty one installments till March 2027. In the said writ petition, the second respondent filed a status report which revealed that due to financial crisis, they could not pay the amount for the work already done by the petitioner. Therefore, the respondent admitted the liability to the tune of Rs.2,00,00,000/- in which, the petitioner was paid only Rs.26,00,000/- so far. As on date, an amount of Rs.1,74,00,000/- is due to the petitioner. Therefore, the reasons stated by the second respondent towards payment by thirty one



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installments, that too upto March 2027, cannot be accepted.

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6. Admittedly, the work was completed in the year 2019.

Now, almost six years are over. Even then, there is a due of Rs.1,74,00,000/- from the respondents to the petitioner. The work order related to BT surface for which the petitioner had spent huge amount by purchasing the materials and paid labour charges. Therefore, the amount, which was already spent by the petitioner, cannot be disbursed by installments. As per the work order, the petitioner shall be paid. The respondents had to pay the amount immediately after completion of the work. There is no dispute that the petitioner failed to complete the work order. Therefore, the respondents ought to have disbursed the entire amount to the petitioner for work order.

7. In view of the above financial crisis expressed by the second respondent Municipality, the second respondent is directed to disburse the amount to the tune of Rs.1,74,00,000/- in three installments. The second respondent shall pay the first installment to the tune of Rs.58,00,000/- on or before 09.09.2024, the second installment to the tune of Rs.58,00,000/- on or before 09.10.2024 and the third installment



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to the tune of Rs.58,00,000/- on or before 09.11.2024.

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8. With the above direction, this writ petition stands disposed of. No costs.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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Note : Issue order copy on or before 04.09.2024

To

1. The Commissioner of Municipal Administration,
Chennai – 600 028.

2. The Commissioner,
Arani Municipality, Arani.

3. The Assistant Engineer,
Arani Municipality, Arani.

G.K.ILANTHIRAIYAN. J.

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