



W.P.No.5166 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.5166 of 2025

C.D.R.Constructions,
108, Thattankattu Thottam,
Chinniyagoundenpalayam,
Sivagiri Post, Erode 638 109.
(Represented by its Sole Proprietor
Shri.D.Vadivel)

... Petitioner

vs.

1. The Executive Officer,
Sivagiri Town Panchayat,
Erode District 638 109.
2. The Junior Engineer,
Sivagiri Town Panchayat,
Erode District 638 109.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the recrds and quash the impugned order passed by the first respondent dated 18.11.2024, cancelling the work order dated 23.08.2024 in Na.Ka.No.155 of 2024 dated 02.08.2024 on the file of the 1st respondent which was issued to the petitioner on 03.10.2024 and consequently direct the respondents 1 and 2 to



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issue a fresh work order in Na.Ka.No.155 of 2024 dated 02.08.2024 on the file of the 1st respondent in favour of the petitioners.

For Petitioner : Mr.B.A.Sujay Prasanna

For Respondents : Mr.R.U.Dinesh Rajukumar
Addl.Govt.Pleader

ORDER

The present writ petition has been filed challenging the impugned order passed by the first respondent dated 18.11.2024 and for a consequential direction to the respondents 1 and 2 to issue a fresh work order in Na.Ka.No.155 of 2024 dated 02.08.2024 on the file of the 1st respondent in favour of the petitioners.

2. It is the case of the petitioner that he is a Class I Contractor with Natural Bank for Agriculture and Rural Development (NABARD) and has successfully completed multiple projects. The 1st respondent issued a tender notification on 02.08.2024 for a road construction project, in which, the petitioner participated and submitted the lowest bid. Thereafter, the first respondent issued work order dated 23.08.2024 in favour of the petitioner



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but it was handed over to the petitioner only on 03.10.2024. Therefore, the

petitioner requested the 1st and 2nd respondents to release pending payments totalling Rs.53,40,856/- for previously completed projects. He stated that he could commence the new project only upon receiving the said payments. After receipt of the work order, his employee collected and endorsed its receipt. The contract period was set for three months from the date of issuance of the work order. Thereafter, the 1st respondent issued notice dated 08.11.2024 directing the petitioner to commence work within three days, failing which, the work order would be automatically canceled. Subsequently, the 1st respondent canceled the work order on the same day without considering the representation. The cancellation was based on the allegation that the petitioner had not commenced the work despite receiving the notice on 08.11.2024. The above said decision was premature, as the contract period had not yet expired.

3. It is the further case of the petitioner that he filed an RTI application seeking a copy of Town Panchayat Resolution No.137/2024, which purportedly disqualified him. But there is no response from the



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authorities. Thereafter, the first respondent issued second tender notice for the same project. Again, the petitioner deposited Rs.1,62,000/- as EMD , but the bid was rejected on the technical grounds as per the update on 31.12.2024. After that, third tender notice was issued even before the second tender's status was officially updated. Again, the petitioner participated once more and submitted an EMD deposit of Rs.1,62,000/-. However, no update was provided with regard to the outcome of this tender and the respondents have not communicated the bid status. Thereafter, the first respondent issued notice for inviting tenders on 28.01.2025 with the deadline for making the EMD Deposit and confirmation of the bid on 12.02.2025. Aggrieved by the same, the petitioner has come forward with the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the first respondent issued a work order dated 23.08.2024 in Na.Ka.No.155/2024 which was issued to the petitioner only on 03.10.2024. He further submitted that the first respondent issued notice dated 08.11.2024 asking the petitioner to start the work immediately and if the work is not started within three days from the date of issuance of the said

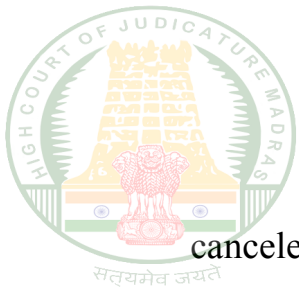


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notice, the tender will be canceled without any prior intimation to the petitioner. The petitioner also suffered loss which has been caused due to the non-commencement of the work. It is further submitted that there is no show cause notice issued to the petitioner before passing the impugned order of the first respondent vide Roc.No.155 of 2024 dated 18.11.2024.

5. The learned counsel further submitted that he has given an objection /reply to the notice dated 08.11.2024 and the same was not considered. Even though the work order was dated 23.08.2024, the same was issued to the petitioner only on 03.10.2024 and as per Clause 1 of the work order notification, the contract period was three months from the date of receipt of the work order. He further submitted that as per Clause 10 of the work order, if the work is not completed within the stipulated time/period, 90 days is granted as gestation period to complete the work.

6. The learned Government Advocate appearing for the respondents submitted that notice issued by the first respondent on 08.11.2024 wherein it is clearly stated that if the work does not commence within a period of three days from the date of receipt of said notice, the work order will be



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canceled without any further intimation to the petitioner and the loss which occurred due to such cancellation will be recovered from the petitioner.

7. Heard the learned counsel for both sides and also perused the materials available on record.

8. In this case, notice was issued on 08.11.2024 by the first respondent and the same was received by the petitioner. Thereafter, he submitted a reply/objection to the first respondent dated 18.11.2024 and without considering the same, the first respondent passed the impugned order dated 18.11.2024 cancelling the work order dated 23.08.2024 which was given to the petitioner on 03.10.2024. As per Clause I of the work order, the period of contract is three months from the date of issuance of work order, which means period starting from 03.10.2024 will be extended till 03.01.2025 and as per Clause 10 of the work order, if the work is not completed within three months as stipulated in the work order, then there is a gestation period i.e 90 days granted to the petitioner to complete the said work . Despite the above Clause 1 and 10, the first respondent without waiting for the period of three months as per Clause 1 and without even



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considering the reply/objections given by the petitioner, in response to the notice dated 08.11.2024 has passed the impugned order dated 18.11.2024.

9. In view of the factual matrix of the case , the impugned order passed by the first respondent dated 18.11.2024 cancelling the work order dated 23.08.2024 in Na.Ka.No.155 of 2024 dated 02.08.2024 is liable to be quashed and accordingly the same is hereby quashed.

10. In the result, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No.
Internet : Yes/No.
Neutral Citation : Yes/No
Speaking : Non-speaking Order
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J.SATHYA NARAYANA PRASAD, J.

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To

1. The Executive Officer,
Sivagiri Town Panchayat,
Erode District 638 109.
2. The Junior Engineer,
Sivagiri Town Panchayat,
Erode District 638 109.

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