



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR**WP No. 22476 of 2025**

1. M/s.Abirami Engineering
Construction And Co
Rep. By A Partner Cum Authorised
Signatory 5/217d1, Teachers Colony,
Mohanur Road, Namakkal-637 001.

Petitioner(s)

Vs

1. The Engineer-in Chief And Chief
Engineer (general)
Public Works Department, Chepauk,
Chennai-5.

2.The Superintending Engineer,
PwD Buildings (c And M) Circle,
Thanjavur-613 001.

3.The Executive Engineer
PwD Buildings (c And M)
Pudukottai-622 001.

4.The Government Of Tamil Nadu
Rep.By Its Secretary, Health And
Family Welfare Department,
Chennai-600 09.

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India, calling for the records on the file of the 1st respondent relating to the issue of the impugned letter No.AEE/ T3/ 026678/ RAS/ 2024 dated 03.04.2025 and quash the same and consequently direct the respondents to work out the price escalation amount taking the quarter of the last date for submission of the bid as the base index for determining the wholesale price index in the specified formula for price adjustments and to pay the price escalation amount so worked out along with 18 percent interest from the date of due till the date of payment within a time frame as may be fixed by this Court



For Petitioner(s): Mr.N.Subramaniyan

For Respondent(s): Mr.M.Suresh Kumar, AAG
assisted by
Mr.V.Jeevagiridharan, AGP

ORDER

Challenging the letter of the first respondent dated 03.04.2025, quash the same and consequently direct the respondents to work out the price escalation amount taking the quarter of the last date for submission of the bid as the base index for determining the wholesale price index in the specified formula for price adjustments and to pay the price escalation amount so worked out along with 18 percent interest from the date of due till the date of payment.

2. The petitioner became the successful bidder for the construction of buildings for New Government Dental College and Hospital at Pudukkottai for the work value of Rs.55,65,00,000/- for the period of 18 months. However, only on 06.08.2021, the Tender Award Committee accepted the petitioner's tender. The agreement was executed on 28.08.2021. According the petitioner, as per the price variation clause as agreed between the parties, price variation will be calculated as per specified formula from the last date of submission of tender upto the end of agreement period provided, if the agreement is signed within the minimum specified time, failing which, the Price Variation will be applicable from the date of agreement only, based on the wholesale price indexes of RBI. The quarter would be reckoned with reference to the quarter of the calendar year

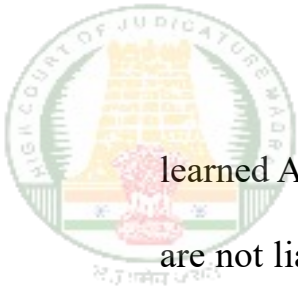


in which the last date on tender submission is fixed. In the case of delayed agreement, the quarter in which the agreement is signed will be reckoned for the purpose of calculation of price adjustments. Hence, it is the contention of the petitioner that since the Tender Award Committee has not informed the finalisation of the tender, the petitioner could not execute the agreement in time, therefore, according to him from the date of submission of tender upto the agreement, he is entitled to price variation. Hence, this writ petition.

3. Counter has been filed by third respondent disputing the contention of the petitioner stating that petitioner is entitled to price variation only from 28.08.2021, i.e., the date of agreement. The main dispute is with regard to the difference from when the price variation applies, however, the respondent has not disputed the fact that they are liable to pay Rs.1,79,92,131/- from the date of agreement, i.e., 28.08.2021. According to them, they are ready to pay that amount without interest within a period of four weeks. Such statement is recorded.

4. Heard both sides and perused the materials placed on record.

5. Calculation of amount from 28.08.2021 made by the respondents is not disputed by the petitioner. Such view of the matter, the respondents shall pay the amount within a period of four weeks. However, it is the contention of the



learned Additional Advocate General that as per clause 65.1 of the contract, they are not liable to pay interest, however, submitted that they will pay the admitted amount of Rs.1,79,92,131/-.. Clause 65.1 of the contract reads as follows:-

65.1 No omission by the Executive Engineer or the Sub-Divisional Officer to pay the amount due upon certificates shall vitiate or make void the contract not shall the contract be entitled to interest upon any guarantee fund or payments in harrier nor upon any balance which may, on the final settlement of his accounts, be found to be due to him.

6. As per Clause 64 of the contract, payments will be made to the contractor under the certificates to be issued at reasonably frequent interval by the Executive Engineer or the Sub-Divisional Engineer within 14 days of the date of each certificate. Therefore, once there is a time limit stipulated for payment of monies to the contractors, clause 64 has to be interpreted that in the event of omission within such period of 14 days, interest normally will not be payable for such delayed payment. However, this Court is of the view that clause cannot be taken advantage to deny the interest for years altogether. If the amount has not been paid for few months due to administrative sanction, then, it can be said that the interest can be waived. But, admittedly, the petitioner has completed the work on 27.02.2023 itself and for more than 2 ½ years, the admitted amount has not been paid by the respondents, therefore, in such situation, it cannot be said that the petitioner is not entitled to any interest as per clause 65.1 of the contract.



7. Therefore, this Court is of the view that though the petitioner is entitled for the interest at the commercial rate since it is a commercial transaction, the respondents shall pay the admitted amount of Rs.1,79,92,131/- with interest @ 10% p.a., from 15.03.2023 till the date of payment to the petitioner. With regard to the dispute as to whether price variation has to be calculated from the date of the submission of tender or from the date of execution of agreement or whether there was any default on the part of the petitioner in executing the contract, the matter has to be adjudicated independently and the separate suits have to be filed.

8. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

18-12-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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