IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 4TH DAY OF OCTOBER 2023 / 12TH ASWINA, 1945

WP(C) NO. 18116 OF 2022

PETITIONER:

B.MURUGAN,
AGED 66 YEARS
S/O. A.P. PILLAI, REVATHY, PATHIRAPALLY LANE, POOJAPPURA, THIRUVANANANTHAPURAM- 695 012.

BY ADVS.
V.G.ARUN (K/795/2004)
NEERAJ NARAYAN
V.JAYA RAGI
R.HARIKRISHNAN (KAMBISSERIL)

RESPONDENTS:

1 UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF STATISTICS AND PROGRAM IMPLEMENTATION, ROOM NO. 523, KHURSHID LAL BHAVAN, JANPATH, NEW DELHI 110 001.

2 STATE OF KERALA,
REPRESENTED BY ADDITIONAL CHIEF SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT, 4TH FLOOR, SECRETARIAT ANNEX, ROOM NO. 403, SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

3 SRI. ANTO ANTONY, MEMBER OF PARLIAMENT,
PATHANAMTHITTA, CONSTITUENCY, M.P. OFFICE, MAKKAMKUNNU, MANNARAMALA, PATHANAMTHITTA 689 645.

4 PATHANAMTHITTA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE, PATHANAMTHITTA 689 645.

5 CENTRAL PUBLIC WORKS DEPARTMENT,
REPRESENTED BY EXECUTIVE ENGINEER, KOTTAYAM CENTRAL DIVISION, CENTRAL PWD, KOTTAYAM 686 001.

6 THE EXECUTIVE ENGINEER,
KOTTAYAM CENTRAL DIVISION, CENTRAL PWD, KOTTAYAM- 686 001.

7 THE ASSISTANT ENGINEER,
KOTTAYAM CENTRAL SUB DIVISION (KCSD) -IV, CENTRAL PUBLIC WORKS DEPARTMENT, IWT TERMINAL NO. 110, SASTHRI NAGAR, SASTHRI JUNCTION, ESIC HOSPITAL, ASRAMAM, KOLLAM 691 002.

8 ADDL.R8.THE DISTRICT COLLECTOR
PATHANAMTHITTA (SUO MOTO IMPLEADED AS THE ADDITIONAL 8TH RESPONDENT AS PER ORDER DATED 19-01-2023 IN WP(C)

BY ADVS.
Girish Kumar V
V.K.SUNIL
N.S.DAYA SINDHU SHREE HARI

SC-MINI GOPINATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court, seeking a direction to the respondents to pay the amounts covered by Exts.P3 and P4, within a time frame to be fixed by this Court. He also makes an alternative plea, that respondents 5 and 6 be directed to take up Ext.P6 representation of his and issue an appropriate order thereon.

2. In response to the afore submissions of Sri.V.G.Arun – learned counsel for the petitioner, the learned Standing Counsel for the 4th respondent – Sri.V.K.Sunil, submitted that a Statement has been filed on record, wherein, it has been explained that the advance amount of Rs.1.4 crores, received from the Central Public Works Department (CPWD) has been utilised; and that a balance Rs.35,00,000/- returned to them

on 27.08.2020. He, however, conceded that interest of an amount Rs.24,87,440/- had been accrued on the above amount, since it was deposited in an interest bearing account; and that the same has not been yet paid to the CPWD, but that request has been made before them that the 2nd tranche of the aid be released, after adjusting the same. She submitted that, as soon as the 2nd tranche is obtained, the bills of the petitioner will be honoured.

3. Sri.Mini Gopinath - learned Central Government Counsel, appearing for the Union of India, however, submitted that as per the terms of the grant-in-aid, the interest accrued on the advance amount will have to be remitted to the account of her client by the Municipality; and only then, can the 2nd tranche be released by the Union Government. She submitted that, therefore,

unless the Municipality acts in such manner immediately, her clients cannot offer them any succor.

4. When I evaluate and consider the afore submissions, it is evident that, even going by the pleadings on record - particularly in Ext.R4(d), the Municipality concedes that a sum of Rs.24,87,440/- was accrued in their account as interest, on the advance amount received by them; and that this has not been yet repaid. As per the submissions of Sri.Mini Gopinath, as seen above, the payment of the interest is a condition precedent for release of the 2nd tranche of the grant-in-aid.

5. Obviously, therefore, it is now for the 4th respondent to act in terms of law, especially taking note of their own admissions in the Statement filed by them, as also in Annexure

R4(d).

In the afore circumstances, this writ petition is allowed, directing the 4th respondent to ensure that the eligible amounts to the petitioner-as covered by Exts.P3 and P4, are paid to him as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment.

I, however, leave full liberty to 4th respondent to approach CPWD for release of the 2nd tranche of the grant-in-aid, adhering to all requirements as may be stipulated by them; for which purpose, all their liberties and contentions are left open.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

SAS

APPENDIX OF WP(C) 18116/2022

PETITIONER'S EXHIBITS:

Exhibit P1	A TRUE COPY OF THE ACCEPTANCE OF TENDER OF WORK DATED 09.10.2019 BY THE EXECUTIVE ENGINEER, KOTTAYAM CENTRAL DIVISION, CENTRAL PWD KOTTAYAM TO SRI. B. MURUGAN.
Exhibit P2	A TRUE COPY OF THE RUNNING BILL DATED 16.03.2020 ISSUED BY B. MURUGAN TO THE ASSISTANT ENGINEER, KOTTAYAM CENTRAL SUB DIVISION IV, CPW, KOLLAM FOR AN AMOUNT OF RS. 77,94,334/ (RUPEES SEVENTY SEVEN LAKH NINETY FOUR THOUSAND THREE HUNDRED AND THIRTY FOUR ONLY).
Exhibit P3	A TRUE COPY OF THE RUNNING BILL DATED 06.08.2020 ISSUED BY M. MURUGAN TO THE ASSISTANT ENGINEER, KOTTAYAM CENTRAL SUB DIVISION IV, CPW, KOLLAM FOR AN AMOUNT OF RS. 1,37,86,681/- (RUPEES ONE CRORE THIRTY SEVEN LAKH EIGHTY SIX THOUSAND SIX HUNDRED AND EIGHTY ONE ONLY).
Exhibit P4	THE TRUE COPY OF THE RUNNING BILL DATED 05.12.2020 ISSUED BY B. MURUGAN TO THE ASSISTANT ENGINEER, KOTTAYAM CENTRAL SUB DIVISION- IV, CPW, KOLLAM FOR AN AMOUNT OF RS. 2,16,39,285/- (RUPEES TWO CRORE SIXTEEN LAKH THIRTY NINE THOUSAND TWO HUNDRED AND EIGHTY FIVE ONLY).
Exhibit P5	THE TRUE COPY OF THE LETTER DATED 24.11.2021 NO. 23(191)/KCD 2021 ISSUED BY THE EXECUTIVE ENGINEER, KOTTAYAM CPWD TO B. MURUGAN.
Exhibit P6	THE TRUE COPY OF THE LETTER DATED 24.03.2022 FORWARDED BY B. MURUGAN TO THE EXECUTIVE ENGINEER, KOTTAYAM CENTRAL DIVISION, CPWD, KOTTAYAM.
Exhibit P8	A TRUE COPY OF A RIGHT TO INFORMATION APPLICATION DATED 31.05.2023 FILED BY THE PETITIONER BEFORE THE EXECUTIVE ENGINEER CPWD KOTTAYAM AND THE SECRETARY PATHANAMTHITTA MUNICIPALITY ALONG WITH ITS ANSWERS

RESPONDENTS' ANNEXURES

ANNEXURE R1(A)	DETAILS OF RELEASE IN RESPECT OF THE HON'BLE

	MP ON 25.11.2022
ANNEXURE R4(A)	A TRUE COPY OF THE LETTER NO 100-42/2015-USIS (RGKA)1296 DATED 10.8.2020 ISSUED BY THE UNDER SECRETARY TO THE GOVERNMENT OF INDIA TO THE JOINT SECRETARY, GOVERNMENT OF KERALA
ANNEXURE R4(B)	A TRUE COPY OF THE LETTER NO E1-6236/2012 DATED 05.02.2021 ISSUED BY THE MUNICIPALITY TO THE 1ST RESPONDENT
ANNEXURTE R4(C)	A TRUE COPY OF LETTER NUMBER E1-6236/2012 DATED 28.12.2021 ISSUED BY THE MUNICIPALITY TO THE 2NDRESPONDENT
ANNEXURE R4(D)	TRUE COPY OF THE LETTER NO E1-6236/12 DATED 14.11.2022 SUBMITTED BY THE 4TH RESPONDENT BEFORE THE FIRST RESPONDENT
ANNEXURE R6(A)	A TURE COPY OF THE MEMORANDUM OF UNDERSTANDING DATED 01-03-2019 SIGNED BETWEEN THE 4TH RESPONDENTS AND THE 6TH RESPONDENT RESPONDENTS
ANNEXURE R6(B)	A TRUE COPY OF THE LETTER NO. 23(2)108/CE-T/2020/1623 ISSUED BY CHIEF ENGINEER, THIRUVANANTHAPURAM DATED 10/11/2020
ANNEXURE R6(C)	A TRUE COPY OF THE HAND RECEIPT OF ADVANCE PAYMENT DATED 13-08-2020.
ANNEXURE R6(D)	A TRUE COPY OF THE LETTER NO. 318-20(H) DATED 25/04/2022 ISSUED BY EXECUTIVE ENGINEER, KOTTAYAM