

Gitpac International, vs Kerala Sustainable Urban Development Project,

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Court : Kerala

Decided On : Mar-14-2025

Judge : Honourable Mr. Justice Harisankar V. Menon

Appeal No. : WP(C)/35239/2019

Appellant : Gitpac International,

Respondent : Kerala Sustainable Urban Development Project,

Advocate for Pet/Ap. : Sri. Praveen Kumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON FRIDAY, THE 14TH DAY OF MARCH 2025 / 23RD PHALGUNA, 1946 WP(C) NO. 35239 OF 2019 PETITIONER: GITPAC INTERNATIONAL, (GREAT INDIA TOURISM PLANNERS AND CONSULTANTS INTERNATIONAL) REPRESENTED BY ITS GENERAL ANAGER, OPERATIONS, TC 5/1246, SANDRAM, SWATHI NAGAR, LANE 6-A, PIPINMOODU, PEROORKADA P.O, THIRUVANANTHAPURAM 695 035. BY ADV K.PRAVEEN KUMAR RESPONDENTS:

1 KERALA SUSTAINABLE URBAN DEVELOPMENT PROJECT, REPRESENTED BY ITS PROJECT DIRECTOR, 5TH FLOOR, TRANS TOWERS, THIRUVANANTHAPURAM -THENMALA ROAD, VAZHUTHACAUD, THIRUVANANTHAPURAM 695014 2 THE THRISSUR MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE ROAD, KURUPPAM, THEKKINKADU MAIDAN, THRISSUR 680001. 3 THE CHITTUR-THATHAMANGALAM MUNICIPALITY, REPRESENTED BY ITS SECRETARY, CHITTUR THATHAMANGALAM, CHITTUR P.O, PALAKKAD 678 101. 4 THE KOLLAM MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, NH 66, NEAR RAILWAY STATION, KOLLAM 691 001 5 THE CHENGANNUR MUNICIPALITY, REPRESENTED BY ITS SECRETARY, CHENGANNUR MUNICIPALITY, ALAPPUZHA 689 121.

6 STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM 695 001. 7 LOCAL SELF GOVERNMENT DEPARTMENT, REPRESENTED BY ITS SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001. BY ADVS. GOVERNMENT PLEADER SHRI. SANTHOSH P.PODUVAL, SC, THRISSUR CORPORATION V.N.HARIDAS SRI.M.K.CHANDRA MOHAN DAS,SC,KOLLAM MPT SHRI.S.HARIKRISHNAN, SC, CHENGANNUR MUNICIPALITY SRI E G GORDEN SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING

HARISANKAR V. MENON, J.

----- W.P.(C) No. 35239 of 2019
----- Dated this the 14th day of March, 2025

JUDGMENT

The petitioner is stated to be a consultant, who has entered into Exts. P3 to P6 tri-partite agreements with the 1 st respondent (KSUDP) and respondents 2 to 5, respectively, with respect to the preparation of the Detailed Project Report

(DPR) for the respondents 2 to 5 (ULBs - Urban Legal Bodies).

The petitioner contends that he was entitled to payment of the fees for preparation of DPR as above, as stipulated in Clause Nos. n(i) to (iv) of Exts.P2 to 6. The first installment of the consultancy fees was fixed at 20%, to be collected by the petitioner as mobilization in advance against the Bank guarantee to be submitted by the petitioner. The petitioner became entitled to the 2nd installment upon the approval of the draft DPR submitted to the State-Level Detailed Project

Report Committee. The dispute in this writ petition is essentially with respect to the 1 st and 2nd installments as above, insofar as the 1st respondent (KSUDP) was, in the meantime, wound up and merged with Amruth Mission as admitted in the counter affidavit filed on behalf of the 1 st respondent herein.

2. The petitioner submitted Ext.P7 seeking the 1 st and 2nd installments to the 1st respondent herein on 23.11.2016 and it is only later that from 31.03.2017, the KSUDP was wound up

as noticed above. Ext.P8 Government Order was issued on 20.10.2018, entitling the petitioner or, for that matter, similarly placed consultancy firms appointed pursuant to Ext.P2 Government Order to collect this fees from ULBs (R2 to 5) directly. In that view of the matter, Exts.P14 to P16 applications have been filed by the petitioner before the respondent 2,3, and 5 respondents claiming the payments as

noticed above separately. The petitioner states that it has furnished the DPR, and upon certain defects being pointed out, revised DPRs were also presented, as evidenced by Exts.P9 to P11 produced along with the reply affidavit. The captioned writ petition has been filed pointing out that in spite of all the above, payments have not been effected to the

petitioner as against the claims submitted as above before the authorities.

3. I have heard Sri Praveen Kumar, learned counsel for

the petitioner, Sri Haridas for the 2 nd and 5th respondents, Sri Santhosh Poduval for the 6th respondent, and Sri Gorden for the 1st, 6th, and 7th respondents. It may straightaway be noticed that the petitioner contends that as regards the 4th respondent herein (Kollam Municipal Corporation), the claim made by the petitioner has been accepted in full, and payments have also been received also.

4. The dispute in this writ petition, as noticed earlier, is

with reference to the claim of the petitioner for the benefits pursuant to the work carried out by it. Respondents 2,3 and 5 have taken the contention to the effect that the petitioner may not be entitled for the payments in so far as Ext.P8 Government Order entitled the petitioner to claim the fee only if the DPR is useful and approved by the concerned authority. Sri. Santhosh, on behalf of the 2 nd respondent, has pointed out that the DPR furnished by the petitioner was never accepted or acted upon and that they have engaged a different agency

for the preparation of the DPR.

5. The fact that the petitioner has carried out the initial work up to 2nd stage is clear from Ext.P7 as well as Exts. P9 to

16. The claim made upto to the 2nd stage is to be disposed of

by the concerned authority - KSUDP - and in so far as KSUDP is not in existence as of now, it has to be considered by Amruth Mission, who has filed a counter affidavit on behalf of the 1st respondent in this writ petition.

6. I also take note of the contention raised by Sri. Gorden, with respect to the counter affidavit of the 1 st respondent that even the DPR as revised by the petitioner was

not sufficient. However, there is no effective consideration with respect to the claim made by the petitioner till date, on the side of any of the authorities. I notice that in

the light of Exts.P3 to P6 tri-partite agreements, the petitioner is entitled for certain payments upon satisfaction of the various clauses therein.

7. In such circumstances I dispose of the writ petition as under:

(i) The concerned authority of the Amruth Mission, to consider the claim made by the petitioner as above within a period of 12 weeks from today.

(ii) The petitioner is permitted to file additional written submissions containing the facts and figures before the Amruth Mission within a period of 3 weeks from today.

(iii) The Amruth Mission authorities are to hear the

petitioner as well as the 2nd, 3rd, and 5th respondents as well as any other stakeholders in the matter and take appropriate decisions with respect to the entitlement of the petitioner within a further period of 12 weeks thereafter.

Sd/- HARISANKAR V. MENON, JUDGE sjb/14.03.2025 APPENDIX OF WP(C) 35239/2019 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF GOVERNMENT ORDER GO(RT) NO EXHIBIT P2 TRUE COPY OF THE GOVERNMENT ORDER G.O(RT) NO. 2823/14/LSGD DATED 31-10-2014 EXHIBIT P3 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 20-08-2015 BETWEEN THE PETITIONER , THE 1ST RESPONDENT AND 4TH RESPONDENT EXHIBIT P4 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 03-09-2015 BETWEEN THE PETITIONER, THE 1ST RESPONDENT THE 2ND RESPONDENT. EXHIBIT P5 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 08-09-2015 BETWEEN THE PETITIONER, THE 1ST RESPONDENT THE 3RD RESPONDENT. EXHIBIT P6 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 03-10-2015 BETWEEN THE PETITIONER, THE 1ST RESPONDENT THE 5TH RESPONDENT. EXHIBIT P7 TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE FIRST RESPONDENT DATED 23-11-2016 ALONG WITH RELATED INVOICE EXHIBIT P8 TRUE COPY OF THE SAID GOVERNMENT ORDER, G.O (RT) 2679/2018/LSG DATED 20-10-2018 RESPONDENT EXHIBITS EXHIBIT R1 (a) A TRUE COPY OF GO (RT) NO- 3475/2014/LSGD DATED 29.12.2014 EXHIBIT R1 (b) A TRUE COPY OF GO

(RT) NO- 3200/2014/LSGD DATED 4.12.2014 EXHIBIT R1 (c) A TRUE COPY OF
GO (RT) NO- 1983/2015/LSGD DATED 1.7.2015 EXHIBIT R1 (d) A TRUE COPY
OF GO (RT) NO- 2172/2015/LSGD DATED 17.7.2015 EXHIBIT R1 (e) A TRUE
COPY OF THE MINUTES OF THE TECHNICAL COMMITTEE DATED
16.11.2016

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