

Rites Ltd. vs State of Kerala

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/18233/2020

Appellant : Rites Ltd.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA,
1945 WP(C) NO. 18233 OF 2020 PETITIONER/S: RITES LTD. (A
GOVERNMENT OF INDIA ENTERPRISE), RITES BHAWAN, PLOT
NO.1, SECTOR 29, GURGAON, HARYANA - 122 001, REP. BY ITS
SENIOR DIVISION GENERAL MANAGER. BY ADV P.SHANES
METHAR RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001. 2 THE PRINCIPAL SECRETARY
TO GOVERNMENT OF KERALA DEPARTMENT OF IRRIGATION AND
WATER RESOURCES, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM- 695 001. 3 THE CHIEF ENGINEER (IRRIGATION AND ADMINISTRATION) PUBLIC OFFICE BUILDING, MUSEUM, THIRUVANANTHAPURAM - 695 033. 4 THE SUPERINTENDING ENGINEER OFFICE OF THE SUPERINTENDING ENGINEER, IRRIGATION SOUTH CIRCLE, PMG JUNCTION, THIRUVANANTHAPURAM - 695 033. 5 ADDL.R5.THE KERALA STATE POLLUTION CONTROL BOARD HEAD OFFICE, PATTOMP.O., THIRUVANANTHAPURAM - 695004 REPRESENTED BY ITS CHAIRMAN. 6 ADDL.R6. KERALA WATER AUTHORITY JALABHAVAN, VELAYAMBALAM, PMG IN. P.O., THIRUVANANTHAPURAM - 695033 REPRESENTED BY ITS MANAGING DIRECTOR. 7 ADDL.R7.THE THIRUVANANTHAPURAM MUNICIPAL CORPORATION LMS VELLAYAMBALAM ROAD, LMS COMPOUND PMG JN.P.O., THIRUVANANTHAPURAM - 695033 REPRESENTED BY ITS

SECRETARY. ADDL. R5 TO 7 ARE IMPEADED AS PER ORDER

W.P.(C)No.18233/2020 2 DATED 16.11.2021. IN IA NO.1/2021. BY ADVS. SRI.VENUGOPAL V. - GOVERNMENT PLEADER SHRI.P.BENJAMIN PAUL, SC, KERALA WATER AUTHORITY SRI.P.K.MANOJKUMAR,SC, N.NANDAKUMARA MENON (SR.) P.K.MANOJKUMAR ADVOCATE GENERAL OFFICE KERALA P.M.JOHNY SUMAN CHAKRAVARTHY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.(C)No.18233/2020 3

JUDGMENT

The petitioner is a Government of India Enterprises. It entered into Ext.P2 agreement with the Government of Kerala for providing a detailed study report and rectification measures for Flood Mitigation and Pollution Abatement in respect of Killi and Karamana rivers in Thiruvananthapuram District. According to the petitioner, though it has submitted its reports, the payments due to it in terms of Ext.P2 agreement have not been paid so far.

2. The learned Government Pleader submits, with reference to

paragraph 2 of the counter affidavit, that as per the agreement, the report shall be placed in accordance with the guidelines of the Ministry of Environment, Forests and Climate Change, Government of India and in accordance with the National River Conservation Plan which has to be followed in preparing the report. It is submitted that the report was not in tune with those guidelines except in certain parameters. It is also submitted that the final report submitted by the petitioner has to be approved by the stakeholders of the project such as Pollution Control Board, Municipal Corporation of Thiruvananthapuram and the Sewerage Division of the Kerala Water Authority. It is submitted with reference to paragraph 5 that an amount of Rs.2,16,15, 255/- has so far been paid to the petitioner and the balance amount payable is only W.P.(C)No.18233/2020 4 Rs.68,84,745/- and service tax on the said sum. It is submitted that even in terms of Ext.P2 agreement, the final amount can be released only after the report is approved by the Government.

3. The learned counsel appearing for the petitioner would

submit that the contention that the report was not in accordance with the National River Conservation Plan is not correct. It is submitted that the petitioner has placed Ext.P14 (produced along with the reply affidavit) before the Superintending Engineer, Irrigation Department showing that the report is in accordance with the National River Conservation Plan. It is also pointed out that the Chief Engineer, Irrigation Department has through Ext.P15 requested the Government to release the payment to the petitioner.

4. Having heard the learned counsel for the petitioner, the

learned Government Pleader and the learned Standing Counsel appearing for the Corporation of Thiruvananthapuram, I am of the view that the 2nd respondent has to take a decision in the matter regarding release of the balance amount to the petitioner on the basis of the terms contained in Ext.P2 without further delay. If any reports are to be placed by additional respondents 5, 6 and 7 (The State Pollution Control Board, the Kerala Water Authority and the Thiruvananthapuram Municipal Corporation), the 2 nd respondent shall W.P.(C)No.18233/2020 5 ensure that

those reports are placed before him within a period of one month from the date of receipt of a certified copy of this judgment. The 2nd respondent shall, thereafter, take a final decision in the matter after affording an opportunity of hearing to the petitioner, within a period of three months thereafter. Based on the decisions to be taken, if any payments are found due to the petitioner, the same shall also be released to the petitioner. The writ petition is disposed of with the above direction.

sd/- GOPINATH P. JUDGE acd W.P.(C)No.18233/2020 6 APPENDIX OF WP(C) 18233/2020 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE GO (RT) NO.658/12/WRD DATED 02.06.2012. EXHIBIT P2 TRUE COPY OF THE AGREEMENT

NO.38/SE/ISC/2012-13 DATED 10.10.2012 BETWEEN THE PETITIONER AND THE RESPONDENT TOGETHER WITH LETTER OF AWARD OF WORK NO.D3-257/SE/ISC/2011 DATED 10.08.2012.

EXHIBIT P3 TRUE COPY OF THE LETTER NO.W3-30013/11 DATED 06.02.2012 OF THE RESPONDENT. EXHIBIT P4 TRUE COPY OF THE SUPPLEMENTAL AGREEMENT DATED 26.07.2013. EXHIBIT P5 TRUE COPY OF THE COMPLETION CERTIFICATE TOGETHER WITH COVERING LETTER NO.D3-1083/SE/ISC/2012 DATED 07.09.2019 OF THE 4TH RESPONDENT. EXHIBIT P6 TRUE COPY OF THE LETTER NO.RITES/P&WR/133 DATED 19.06.2017. EXHIBIT P7 TRUE COPY OF THE STATEMENT OF ACCOUNT. EXHIBIT P8 TRUE COPY OF THE CORRESPONDENCES ADDRESSED TO THE 2ND RESPONDENT. EXHIBIT P9 TRUE COPY OF THE CORRESPONDENCES ADDRESSED TO THE 3RD RESPONDENT. EXHIBIT P10 TRUE COPY OF THE CORRESPONDENCES ADDRESSED TO THE 4TH RESPONDENT.

EXHIBIT P13 TRUE COPY OF THE LETTER NO.D

EXHIBIT P14 TRUE COPY OF THE LETTER NO.RITES/UE/POLLUTION ABATEMENT/2630/2014/67 DATED 12.03.2015 W.P.(C)No.18233/2020 7 EXHIBIT P15 TRUE COPY OF THE LETTER NO.W3-30013/11/DB DATED 30.03.2016 OF THE 3RD RESPONDENT EXHIBIT P16 TRUE COPY OF THE CHART NARRATING PAYMENTS MADE BY THE RESPONDENT RESPONDENTS EXHIBITS EXT.R4(a): TRUE COPY OF LETTER NO.D3-

1083/SE/ISC/2012 (PART II) (b) DATED 01.10.2019.

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