

**Base Electronics & Systems vs the Managing Director**

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**SooperKanoon Citation :** [sooperkanoon.com/1374530](https://sooperkanoon.com/1374530)

**Court :** Kerala

**Decided On :** Jul-21-2023

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** WP(C)/22947/2023

**Appellant :** Base Electronics & Systems

**Respondent :** The Managing Director

**Judgement :**

WP(C) NO. 22947 OF 2023 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
FRIDAY, THE 21ST DAY OF JULY 2023 / 30TH ASHADHA, 1945  
WP(C) NO. 22947 OF 2023 PETITIONER/S: BASE ELECTRONICS &  
SYSTEMS REP. BY ITS AUTHORISED PERSON MR. B. ANANDHAN,  
NO.35, CHELLAPERUMAL STREET, LAKSHMIPURAM,  
THIRUVANMIYUR, CHENNAI - 600041, ALSO AT NO. 144,  
SEEVARAM 1ST STREET, PERUNGUDI, CHENNAI., PIN -

BY ADVS. SUSANTH SHAJI ALBIN A. JOSEPH RESPONDENT/S: 1  
THE MANAGING DIRECTOR KERALA WATER AUTHORITY,

JALABHAVAN, VELLAYAMBALAM THIRUVANANTHAPURAM, KERALA, INDIA 695033, PIN - 2 THE SUPERINTENDING ENGINEER PUBLIC HEALTH CIRCLE, PROJECT DIVISION, KERALA WATER AUTHORITY, THIRUVANANTHAPURAM., PIN - 655033 3 THE BRANCH MANAGER FEDERAL BANK LTD., ADYAR BRANCH, NO.10B RAMACHANDRA ADITHANAR ROAD GANDHI NAGAR, ADYAR, CHENNAI., PIN - OTHER PRESENT: SRI. GEORGIE JOHNY, SC FOR R1 & R2 THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 22947 OF 2023 2 P.V.KUNHIKRISHNAN, J ----- W.P.(C.) No. 22947 of 2023 ----- Dated this the 21st day of July, 2023

## **JUDGMENT**

The above writ petition is filed with following prayers :

(i) Issue a Writ of Certiorari, or any other appropriate writ,

### **order or direction as this Hon'ble Court deems fit and proper**

in the circumstances of the case, calling for the records leading to the issue of Ext.P13 order and Ext.P14 notice and to quash them;

(ii) Issue a writ of mandamus or other appropriate writ,

orders or directions, directing the 2nd Respondent to make the payment of Rs. 59,54,444/- that is legally due and payable to the Petitioner as per the tender and selection notice No.KWA/PHC/TVM/ D5/85Q/2014 dated 12/07/2018; and also release the Treasury Savings Deposit for Rs.2,28,200/-, Bank Guarantee for Rs.2,28,108/- and Additional Bank Guarantee for Rs.5,34,451/-;

(iii) Grant such other reliefs as may be prayed for and as the court may deem fit to grant, and

(iv) Allow the Petitioner to recover the full costs incurred for the institution and conduct of the Writ Petition (Civil) from the WP(C) NO. 22947 OF 2023 3 2nd Respondent. [SIC]

2. The petitioner is aggrieved by the order terminating

the work of supply and fixing of automatic meters with GSM/GPRS interface for bulk customers through Ext.P13. It is the case of the petitioner that the 2nd respondent issued the impugned order without following the due procedure of law and it is arbitrary. According to the petitioner, the purpose of the contract has been completed and the question of termination of the contract does not arise at all. It is also the case of the petitioner that the 2nd respondent has terminated the completed contract and therefore, the 2nd respondent has acted arbitrarily and contrary to Article 14 of the Constitution of India. It is also the case of the petitioner that the 2nd respondent is empowered to deduct any sum towards unfinished work and the 2nd respondent is expected to estimate the extent of unfinished work and deduct any sum arrived towards the same and pay the balance amount as per page No.42 of the notice inviting tender. It is the case of the WP(C) NO. 22947 OF 2023 4 petitioner that instead of adhering to the conditions of notice inviting tender terminating the contract after completion, is contrary to the terms and conditions. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 and 2.

4. The counsel for the petitioner reiterated the

contentions raised in this writ petition in detail and takes me through various documents produced along with this writ petition. The Standing Counsel appearing for the 1st and 2nd respondents supported Ext.P13 order. I do not want to make any observation about Ext.P13. A perusal of Ext.P13 would show that two or three chances were given to the petitioner to explain his stand. But it is the case of the 1

st and 2nd respondents that the petitioner has not availed that chance. But, the counsel for the petitioner dispute the same. If that is the case, I am of the opinion that the petitioner can be given one more chance to agitate his contentions based on the WP(C) NO. 22947 OF 2023 5 averments raised in this writ petition before the 2 nd respondent. The petitioner can be allowed to file a representation before the 2nd respondent within a short period and there can be a direction to consider that representation with notice to the petitioner within a time frame. Till then, coercive steps, if any based on Exts.P13 and P14 can be deferred. Therefore, this writ petition is disposed of with the following directions :

1) The petitioner is free to submit a representation narrating the grievance raised in this writ petition before the 2 nd respondent within one week from the date of receipt of a certified copy of this judgment.

2) Once such a representation is received, the 2 nd respondent will consider the same and pass orders after giving an opportunity of hearing to the petitioner as expeditiously as possible, at any rate, within two weeks from the date of receipt of the representation. WP(C) NO. 22947 OF 2023 6

3) Till final orders are passed in the representation, if the representation is submitted as directed above, all coercive steps based on Exts.P13 and P14 are deferred.

4) The petitioner will produce a certified copy of this

### **judgment along with a copy of this writ petition with**

exhibits before the 2nd respondent for compliance. Sd/- P.V.KUNHIKRISHNAN  
JUDGE SKS WP(C) NO. 22947 OF 2023 7 APPENDIX OF WP(C) 22947/2023  
PETITIONER EXHIBITS Exhibit P1 TRUE PHOTOSTAT COPY OF THE MSME  
REGISTRATION CERTIFICATE OF BASE ELECTRONICS & SYSTEMS DATED  
10.12.2008 Exhibit P2 TRUE PHOTOSTAT COPY OF THE NOTICE INVITING  
TENDER ISSUED BY THE 2ND RESPONDENT DATED 20.04.2018 Exhibit P3  
TRUE PHOTOSTAT COPY OF THE AGREEMENT EXECUTED BETWEEN THE  
PETITIONER AND 2ND RESPONDENT DATED 28.07.2018 Exhibit P4 TRUE

PHOTOSTAT COPY OF THE GENERAL POWER OF ATTORNEY BY SOLE PROPRIETOR MRS.A. HEMAVATHY AUTHORIZING MR. B. ANANDHAN DATED 06.08.2018 Exhibit P5 TRUE PHOTOSTAT COPY OF THE PETITIONER'S LETTER TO THE 2ND RESPONDENT DATED 28.10.2021 Exhibit P6 TRUE PHOTOSTAT COPY OF THE PROCEEDINGS OF CHIEF ENGINEER, PROJECTS AND OPERATIONS, THIRUVANANTHAPURAM DATED 15.07.2022 Exhibit P7 TRUE PHOTOSTAT COPY OF THE PROCEEDINGS OF TECHNICAL MEMBER DATED 26.07.2022 Exhibit P8 TRUE PHOTOSTAT COPY OF THE EMAIL OF THE 2NDRESPONDENT TO THE PETITIONER WITH THE LETTER DATED 04.02.2023 Exhibit P9 TRUE PHOTOSTAT COPY OF THE EMAIL OF THE PETITIONER TO THE 2ND RESPONDENT DATED 13.02.2023 WP(C) NO. 22947 OF 2023 8 Exhibit P10 TRUE PHOTOSTAT COPY OF THE LEGAL NOTICE ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 20.03.2023 Exhibit P11 TRUE PHOTOSTAT COPY OF THE LETTER OF THE PETITIONER TO THE 2ND RESPONDENT DATED 13.04.2023 Exhibit P12 TRUE PHOTOSTAT COPY OF THE LETTER OF THE PETITIONER TO THE 2ND RESPONDENT DATED 16.04.2023

**Exhibit P13 TRUE PHOTOSTAT COPY OF THE IMPUGNED ORDER**

OF THE 2ND RESPONDENT DATED 16.05.2023 Exhibit P14 TRUE PHOTOSTAT COPY OF THE LETTER OF THE 2NDRESPONDENT TO THE 3RDRESPONDENT DATED 15.06.2023

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