

C.I. Constructions vs the Public Works (Hd) Department

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Court : Kerala

Decided On : Apr-07-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/430/2022

Appellant : C.I. Constructions

Respondent : The Public Works (Hd) Department

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 7TH DAY OF APRIL 2022/17TH CHAITHRA, 1944
WP(C) NO. 430 OF 2022 PETITIONER: M/S. C.I. CONSTRUCTIONS,
HAWWA TOWER, ALUVA ROAD, BRAHMAPURAM, KARIMUGAL,
ERNAKULAM DISTRICT - 682 303 REPRESENTED BY ITS
MANAGING PARTNER C.I.ASSIS, S/O.ISMAIL, AGED 56 YEARS,
CHELLIPADATH, PINARMUNDA, PERINGALA P.O., PIN - 683 565.

BY ADVS. PAUL K.VARGHESE A.A.GEETHA K.P.S.JALALUDDEEN
MOHMMED RESPONDENTS: 1 THE PUBLIC WORKS (HD)
DEPARTMENT, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM - 695 001, REPRESENTED BY ITS SECRETARY. 2 THE DIRECTOR OF COLLEGIATE EDUCATION DEPARTMENT, VIKASH BHAVAN, THIRUVANANTHAPURAM - 695 033. 3 THE KITCO LTD., PUTHIYA ROAD, NH BYPASS, VENNALA, KOCHI, PIN - 682 028, REPRESENTED BY ITS MANAGING DIRECTOR.

4 THE MANAGING DIRECTOR, KITCO LTD., PUTHIYA ROAD, NH BYPASS, VENNALA, KOCHI, PIN - 682 028. R1-R2 SMT.PARVATHY KOTTOL, G.P. R3-R4 SMT.RAMOLA NAYANPALLY, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of April, 2022 The petitioner, a Firm engaged in Construction works, who undertook the construction work of Arts and Science College, Mankada in Malappuram District, has approached this Court seeking to direct respondents 1 to 3 to disburse the entire amount of `40,39,496/- to the petitioner based on Ext.P9 order of the 1st respondent and also Exts.P2 and P11 forthwith which was deducted by the respondents from each running bills.

2. Ext.P9 Government Order states that if the work

is having guarantee for a period of more than one year the Security Deposit will be released after the contractor executing an indemnity bond in the specified form for an equal amount of the remaining guarantee period, the petitioner being a MSME Unit. The learned Standing Counsel for the 3rd respondent submitted that the matter has been referred to the State Government for clarification over the applicability of Ext.P9 and acceptability of the petitioner's claim.

3. When this writ petition came up for hearing, the

learned Government Pleader made available a communication P2/15840/2014/DCE dated 31.01.2022 wherein the Director of Collegiate

Education has directed the 4th respondent to take a decision in accordance with the letter dated 31.01.2022. The learned Standing Counsel for respondents 3 and 4 submits that they are not in a position to confirm the receipt of letter dated 31.01.2022. However, since respondents 1 and 2 have produced the letter dated 31.01.2022, a copy of which has been handed over to the Standing Counsel, respondents 3 and 4 can now take a decision on the basis of the said communication. In the circumstances, the writ petition is disposed of directing the 4th respondent to take a decision on the claim made by the petitioner adverting to Exts.P3, P9 and P10 and taking into consideration the communication dated 31.01.2022. A decision in this regard shall be taken within a period of one month.

Sd/- N. NAGARESH JUDGE ncd/08.04.2022 APPENDIX OF WP(C) 430/2022

PETITIONER'S EXHIBITS Exhibit P1 A TRUE COPY OF THE RELEVANT PAGES OF THE TENDER ISSUED BY THE 3RD RESPONDENT DATED NIL. Exhibit P2 A TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND 3RD AND 4TH RESPONDENTS DATED 13/2/2015. Exhibit P3 A TRUE COPY OF THE CERTIFICATE ISSUED BY MICRO SMALL AND MEDIUM ENTERPRISES DATED 23/2/2013. Exhibit P4 A TRUE COPY OF THE CERTIFICATE ISSUED BY THE NATIONAL SMALL INDUSTRIES CORPORATION LTD. TO THE PETITIONER DATED 10/12/2020. Exhibit P5 A TRUE COPY OF THE ORDER G.O.(P) SECRETARY TO GOVERNMENT OF KERALA DATED 17/5/2014. Exhibit P6 A TRUE COPY OF THE COMPLETION CERTIFICATE ISSUED BY THE KITCO TO THE PETITIONER DATED 24/11/2020. Exhibit P7 A TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 28/3/2021. Exhibit P8 A RUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE MANAGING DIRECTOR KITCO DATED 25/5/2021.

Exhibit P9

A TRUE COPY OF THE ORDER OF THE

BY THE 3RD RESPONDENT TO STATE BANK OF INDIA, AMBALAMEDU DATED NIL. Exhibit P11 A TRUE COPY OF THE BOND EXECUTED BY THE PETITIONER BASED ON EXT.P10 ON Exhibit P12 A TRUE COPY OF THE JUDGMENT IN WP(C) NO.13199/2021 OF THIS HON'BLE COURT DATED 30/9/2021. Exhibit P13 A TRUE COPY OF THE REPRESENTATION SUBMITTED

BY THE PETITIONER DATED Exhibit P14 A TRUE COPY OF THE LETTER
NO.8308 ISSUED BY THE KITCO TO THE DIRECTOR OF COLLEGIATE
EDUCATION DATED Exhibit P15 A TRUE COPY OF THE LETTER ISSUED BY
KITCO TO THE PETITIONER DATED

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