



2024:KER:64670

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 29TH DAY OF JULY 2024 / 7TH SRAVANA, 1946

WP(C) NO. 40549 OF 2023

PETITIONER:

P.V. SADANANDAN
AGED 72 YEARS
S/O. P.K. VELAYUDHAN, CONTRACTOR, POTTASSERY HOUSE,
VADUTHALA P.O., ERNAKULAM, KOCHI., PIN - 682023

BY ADVS.
BABU JOSEPH KURUVATHAZHA
ARCHANA K.S.
MOHAMMED SHAFI.K
NOEL EALIAS

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT, DEPARTMENT
OF PUBLIC WORKS, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM., PIN - 695001
- 2 CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS), PUBLIC OFFICE COMPLEX,
PUBLIC OFFICE P.O., THIRUVANANTHAPURAM., PIN - 695033
- 3 DEPUTY CHIEF ENGINEER (VIGILANCE)
PUBLIC WORKS DEPARTMENT, OFFICE OF THE CHIEF ENGINEER,
PUBLIC OFFICE COMPLEX, PUBLIC OFFICE P.O.,
THIRUVANANTHAPURAM., PIN - 695033



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- 4 EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT, ROADS DIVISION, THRIKKAKARA,
ERNAKULAM, KOCHI., PIN - 682021
- 5 ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT, ROADS SUB DIVISION,
THRIKKAKARA, ERNAKULAM, KOCHI., PIN - 682021
- 6 ASSISTANT ENGINEER
PUBLIC WORKS DEPARTMENT, ROADS SECTION, THRIKKAKARA,
ERNAKULAM, KOCHI., PIN - 682021

SMT. DEEPA NARAYANAN, SR.GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

Dated this the 29th day of July, 2024

The petitioner, a contractor having 'A' class registration, was awarded the work, 'B/W 2020-21, effecting improvements to Jawahar Road by providing drainage facilities and foot path at Ch.0/200 to 0/700'. After executing the agreement, the site was handed over to the petitioner on 04.03.2021. As the covid pandemic was at its peak at that time, the petitioner could commence the work only on 22.09.2021. Thereafter, while the work was in progress, an allegation was circulated through social media, based on a video footage of the concreting work of the wearing coat for providing drainage facility being carried out while the drain was in a submerged



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condition. Immediately, the petitioner was directed to stop the work and issued with a notice, requiring him to show cause as to why the agreement should not be cancelled. While so, the 1st respondent directed the 2nd respondent to hold necessary enquiry into the matter by deputing the 3rd respondent. Accordingly, the 3rd respondent inspected the site and submitted Exhibit P4 report containing certain recommendations. Later, the 2nd respondent issued Exhibit P6 order, directing the 4th respondent to black list the petitioner. Thereafter, the 1st respondent issued Exhibit P7 order directing the 2nd respondent to terminate the agreement at the risk and cost of the petitioner. Challenging those orders, the petitioner filed W.P.(C) No.30061 of 2022. That writ petition was disposed by Exhibit P8 judgment with the following directions:



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"i. The petitioner is free to submit a representation narrating his surviving grievance to the 2nd respondent within one week from the date of receipt of a certified copy of the judgment.

ii. Once such a representation along with a certified copy of the judgment is received, the 2nd respondent will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within a period of three weeks from the date of receipt of the representation.

iii. While deciding the matter, the 2nd respondent will also consider Ext.P4 report.

iv. Till final orders are passed as directed above, the work shall not be reallotted by inviting fresh tenders on condition that the petitioner will submit the representation as directed above."

In compliance of the directions in the judgment, the petitioner submitted Exhibit P9 representation and the 2nd respondent issued Exhibit P10 order, upholding the order terminating the agreement and rejecting the petitioner's request to revoke the termination. This



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writ petition is filed challenging Exhibit P10 as well as the earlier order blacklisting the petitioner and terminating the agreement.

2. Learned counsel for the petitioner contended that Exhibit P10 order is *ex facie* illegal, since the explanation in Exhibit P9 or the findings in Exhibit P4 report are not adverted to. According to the counsel, Exhibit P10 order was hastily passed to wriggle out of the contempt proceedings initiated at the instance of the petitioner. It is argued that no purpose will be served by the 2nd respondent being directed to consider the petitioner's representation, in view of Exhibit P7 order of the Government which is binding on the 2nd respondent.

3. Learned Government Pleader contended that the petitioner's actions had brought disrepute to the



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Government and the impugned orders were passed after taking into account all relevant factors.

4. A careful scrutiny of Exhibit P10 reveals that the order was hastily issued on 26.10.2023, in view of this Court's direction in Contempt Case (C) No.2119 of 2023, requiring the 2nd respondent to appear before the Court on 27.10.2023, if the direction in Exhibit P8 judgment to consider the petitioner's representation is not complied with. As a result, the direction in Exhibit P8 to consider Exhibit P4 report is not seen complied with. Like wise the petitioner's explanation in Exhibit P9 and his offer to carry out the balance works is also not adverted to. Thus, Exhibit P10 is bad for non-compliance of this Court's directions and absence of reasons. Hence, Exhibit P10 is quashed. I also find substance in the submission that, no purpose will be



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served by the 2nd respondent considering the explanation, since the Government, vide Exhibit P7, has ordered to cancel the agreement. In my opinion, interest of justice will be subserved by the Government being directed to consider the petitioner's representation in an unbiased manner.

5. The writ petition is accordingly disposed of, directing the 1st respondent to consider Exhibit P9 representation and take a decision thereon, uninfluenced by the earlier orders and by taking into account the findings in Exhibit P4 report. For the purpose of such consideration, the relevant file shall be placed before the 1st respondent. The petitioner shall produce a copy of this writ petition along with certified copy of the judgment. The decision, as directed above, shall be taken within one month of receipt of a copy of



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this judgment. Till orders are passed on the representation, coercive proceedings against the petitioner, if any proposed, shall be kept in abeyance.

Sd/-

V.G.ARUN

JUDGE

SSK/29/07



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APPENDIX OF WP(C) 40549/2023

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE REPRESENTATION DATED
21.10.2021 SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT. |
| Exhibit P2 | TRUE COPY OF THE SHOW CAUSE NOTICE DATED
22.10.2021 ISSUED BY THE 4TH RESPONDENT. |
| Exhibit P3 | TRUE COPY OF THE SHOW CAUSE NOTICE DATED
23.10.2021 ISSUED BY THE 4TH RESPONDENT. |
| Exhibit P4 | TRUE COPY OF THE REPORT DATED 6.11.2021
SUBMITTED BY THE 3RD RESPONDENT BEFORE THE
1ST RESPONDENT. |
| Exhibit P5 | TRUE COPY OF THE REPRESENTATION DATED
27.11.2021 SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT. |
| Exhibit P6 | TRUE COPY OF THE DIRECTION DATED 5.1.2022
ISSUED BY THE 2ND RESPONDENT TO THE 4TH
RESPONDENT. |
| Exhibit P7 | TRUE COPY OF THE DIRECTION DATED 17.8.2022
ISSUED BY THE 1ST RESPONDENT TO THE 2ND
RESPONDENT. |
| Exhibit P8 | TRUE COPY OF THE JUDGMENT OF THIS
HON&#8217;BLE COURT DATED 22.5.2023 IN W.P.
(C) NO.30061/2022. |
| Exhibit P9 | TRUE COPY OF THE REPRESENTATION DATED
29.5.2023 SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT. |



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Exhibit P10

TRUE COPY OF THE ORDER NO.CEPWD/10378/2021-C6(W)-RD DATED 26.10.2023 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT EXHIBITS

Exhibit R4(b)

True copy of the report of the inspection conducted by the third respondent dated 06.11.2021

Exhibit R4(c)

True copy of the minutes of meeting and report dated 20.01.2022

Exhibit R4(a)

True copy of the acknowledgement of handing over the site to the contractor

TRUE COPY

P.A. TO JUDGE