

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 28TH DAY OF APRIL, 2020/8TH VAISAKHA, 1942

W.P. (C) NO.9329 OF 2020

PETITIONER:-

P.K.K.CONSTRUCTIONS (ENGINEERS & CONTRACTORS)
KEEZHUPARAMBA P.O., AREACODE
MALAPPURAM
REP. BY MANAGING PARTNER P.K.KAMMEDKUTTY
AGED 62 YEARS, S/O.MUHAMMED HAJI
PEZHUNGADAN KOLATHICKAL
KEEZHUPARAMBA P.O., AREACODE
MALAPPURAM 673 639

BY ADV.SREEKUMAR S.
ADV.AJITHKRISHNAN

RESPONDENTS:-

1. STATE OF KERALA
REP. BY PRINCIPAL SECRETARY
PUBLIC WORKS DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001
2. THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS & BRIDGES)
THIRUVANANTHAPURAM 695 033
3. THE SUPERINTENDING ENGINEER
PUBLIC WORKS DEPARTMENT
O/o. THE SUPERINTENDING ENGINEER (ROADS &
BRIDGES)
SOUTH CIRCLE,
THIRUVANANTHAPURAM 695 033
4. THE SUPERINTENDING ENGINEER
PWD, BRIDGES SOUTH CIRCLE,
ALAPPUZHA 688 001
5. PRINCIPAL SECRETARY
FINANCE (INDUSTRIES & PUBLIC WORKS-P) DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001
6. THE CHIEF SECRETARY

GOVERNMENT OF KERALA
SECRETARIAT
THIRUVANANTHAPURAM 695 001

BY SRI.T.S.SYAMPRASANTH, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ORDERS ON
28.4.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS-----
W.P (C) No.9329 of 2020-----
Dated this the 28th day of April, 2020**ORDER**

The issue in this writ petition relates to the demand of additional performance guarantee. According to the petitioner, the said demand is without any basis. On the contrary, the learned Government Pleader submits that Ext.P1 has not been produced in full and that there are clauses which provide for conditions requiring the furnishing of additional performance guarantee. The learned counsel Sri. S. Sreekumar instructed by Sri.Ajith Kumar submits that Exts.P4 and P5 govern the issue. However, the learned Government Pleader seeks time to file the records related to this case. He seeks time till next Tuesday i.e; 05.05.2020 for the same. The learned Senior Counsel submits that he has no objection in grant of time, but since the Department is insisting on furnishing the additional performance guarantee and execute the agreement he apprehends that failure to do so will result cancellation of award of contract. I find the apprehension of the learned Senior Counsel justified and in the circumstances, I direct the respondents not to act pursuant to the direction to execute the agreement till

WPC 9329/20

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05.05.2020.

Post the case on 05.05.2020.

**BECHU KURIAN THOMAS
JUDGE**

bng

APPENDIX

PETITIONER'S/S' EXHIBITS:

EXT.P1:- TRUE COPY OF THE NOTICE INVITING TENDER DATED 19.12.2019
ISSUED BY THE 3RD RESPONDENT

EXT.P2:- TRUE COPY OF THE INTERIM ORDER IN W.P. (C)NO.2432/2020
DATED 13.3.2020 OF THIS HON'BLE COURT

EXT.P3:- TRUE COPY OF THE LETTER OF ACCEPTANCE
NO.SEBRSC/DB2/ALP/2019-20 DATED 13.3.2020

EXT.P4:- TRUE COPY OF THE SAID GOVERNMENT ORDER G.O. (P)
No.1/2019/Fin. DATED 10.1.2019 ISSUED BY THE 5TH
RESPONDENT

EXT.P5:- TRUE COPY OF THE GOVERNMENT ORDER IN G.O. (P)
No.168/2019/Fin. DATED 7.12.2019 ISSUED BY THE 5TH
RESPONDENT

EXT.P6:- TRUE COPY OF RELEVANT PAGES OF THE PRICE SCHEDULE IN
RESPECT OF EXT.P1 WORK ISSUED BY THE 4TH RESPONDENT

EXT.P7:- TRUE COPY OF THE REPRESENTATION DATED 18.3.2020 SUBMITTED
BY THE PETITIONER TO THE 1ST RESPONDENT

RESPONDENT'S/S' EXHIBITS:

NIL

/TRUE COPY/

VPS

PS TO JUDGE