

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH.P.

FRIDAY, THE 08TH DAY OF MAY, 2020/18TH VAISAKHA, 1942

W.P(C) NO.9777 OF 2020

PETITIONER

RAJESH BABU,
AGED 44 YEARS, S/O M.V.BABU,
PROPRIETOR,
UNIVERSAL TELESERVICES,
ST. GEORGE BUILDING, PULAMON (PO),
KOTTARAKKARA, KOLLAM DISTRICT,
PIN- 691 531,

BY. ADVS. SRI M.V.THAMBAN
SRI R.REJI
SMT.THARA THAMBAN
SRI B.BIPIN

RESPONDENTS

1. THE CHIEF GENERAL MANAGER TELECOM,
BHARAT SANCHAR NIGAM LIMITED,
KERALA CIRCLE, DOORSANCHAR BHAVAN,
PMG JUNCTION, THIRUVANATHAPURAM, PIN- 695 033
2. THE PRINCIPAL GENERAL MANAGER TELECOM,
BHARAT SANCHAR NIGAM LIMITED,
THRISSUR, BSNL SANDAR BHAVAN,
THRISSUR, PIN- 680 222
3. THE ASSISTANT GENERAL MANAGER (PLG) ,
OFFICE OF THE GENERAL MANAGER TELECOM,
BHARAT SANCHAR NIGAM LIMITED,
THRISSUR, BSNL SANDAR BHAVAN,
THRISSUR, PIN- 680 222

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THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON
08.05.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Admit.

2. The petitioner is directed to serve notice of this writ petition on respondents 1 to 3 through E-mail and to file a memo regarding the same.

3. I notice from Ext.P2 that the petitioner was given time till 06.04.2020 to furnish the security deposit inspite of the fact that he was required to provide security deposit by 15.03.2020 in terms of the tender notification. The petitioner has sent Ext.P3 E-mail on 03.04.2020, stating that he is unable to provide the security deposit on account of the spreading of COVID-19. Through Ext.P4 order dated 09.04.2020, the letter of intent issued to the petitioner was cancelled on account of the failure to provide security deposit. The respondents appear to have invited fresh tenders for the very same work though Ext.P7. The petitioner states that the tender pursuant to

Ext.P7 has not been finalized so far. I also notice that the Chief General Manager of the Kerala Circle has confirmed the decision in Ext.P4 to cancel the letter of intent issued to the petitioner.

4. The learned counsel for the petitioner would rely on Ext.P8 to contend that as early as on 27.03.2020, the competent Authority in the Corporate Office of BSNL, appears to have taken a decision that instead of Bank guarantee an undertaking would be sufficient for award of work in respect of out sourcing of customer access, copper network etc. which is the very work awarded to the petitioner. Though Ext.P8 is a communication issued from the Corporate Office, BSNL to the CGMITPC, Maharashtra, I notice that the same has been endorsed and forwarded to all Division Heads in Kerala, by the Trivandrum Office of the BSNL.

Considering all the aforesaid facts and circumstances, the petitioner is entitled to an interim order staying Exts.P4, P7 and P9, for a period of two

months. The respondents may move for vacating or modifying this interim order after entering appearance.

**GOPINATH.P
JUDGE**

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APPENDIX

PETITIONERS EXTS:

EXHIBIT P1:- TRUE COPY OF THE EXTRACT OF THE TENDER NO. AGM PLG/TCR/RETENDER/EXTL PLANT MTCE/OUTSOURCING /2019-20/3 DATED 11.02.2020 ISSUED BY THE THIRD RESPONDENT

EXHIBIT P2:- TRUE COPY OF THE LETTER DATED 03.04.2020 BY THE 3RD RESPONDENT

EXHIBIT P3:- TRUE COPY OF THE LETTER SENT TO THE 3RD RESPONDENT DATED 06.04.2020.

EXHIBIT P4:- TRUE COPY OF THE LETTER NO. AGM PLG/TCR/RETENDER/EXTL PLANT MTCE/ OUTSOURCING /2019-20/21 DATED 09.04.2020 OF THE 3RD RESPONDENT

EXHIBIT P5:- TRUE COPY OF THE AGREEMENT DATED 02.03.2020 IN RESPECT OF PERINJANAM CLUSTER

EXHIBIT P6:- TRUE COPY OF THE PERFORMANCE BANK GUARANTEE DATED 13.03.2020 IN RESPECT OF PERINJANAM CLUSTER

EXHIBIT P7:- TRUE COPY OF THE EXTRACT OF TENDER NO. PLG/TCR/RETENDER/3 CLUSTERS/EXTL PLANT MTCE/OUTSOURCING / 2019-21/2 DATED 09.04.2020 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P8:- TRUE COPY OF THE LETTER DATED 27.03.2020 OF THE GENERAL MANAGER, CORPORATE OFFICE, NEW DELHI

EXHIBIT P9:- TRUE COPY OF THE LETTER BY THE 1ST RESPONDENT