

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH.P.

TUESDAY, THE 12TH DAY OF MAY, 2020/22ND VAISAKHA, 1942

W.P(C) NO. 9855 OF 2020

PETITIONER:

P T MATHEW
PANDAKASALA HOUSE
KAMBAMKODU , VAYAKAL P.O
KOTTARAKKARA, KOLLAM DISTRICT 691532

BY ADV.UNNI.K.K(EZHUMATTOOR)

RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY CHIEF SECRETARY
GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM 695 001
- 2 SECRETARY TO GOVERNMENT
FINANCE DEPARTMENT
GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM 695 001
- 3 SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT
GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM 695 001
- 4 KERALA LAND DEVELOPMENT CORPORATION LTD
REPRESENTED BY ITS MANAGING DIRECTOR
KERALA LAND DEVELOPMENT CORPORATION LTD
TC 11/570, MUSEUM BAINS COMPOUND
KOWDIAR P.O 695003
THIRUVANATHAPURAM
- 5 CONSTRUCTION ENGINEER
KERALA LAND DEVELOPMENT CORPORATION LTD
CONSTRUCTION ENGINEER'S OFFICE,
28/747, SABARI GRADENS
CHANDANAKKAVU, ALAPUZHA 6880011

BY R1 TO R3 SMT.VINITHA.B., GOVERNMENT PLEADER

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 12.05.2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This Writ Petition is filed challenging the demand for additional performance guarantee in respect of a work awarded by the fourth respondent Corporation.

2. The learned counsel for the petitioner submits that he will be required to produce performance guarantee only if his quotation is 10% less than the probable amount of contract (PAC) and not otherwise. He submits that in respect of the work awarded to him through Ext.P1, his quotation is 5.9% below the PAC and therefore that in terms of Ext.P2 Government Order, he is not required to provide any additional performance guarantee.

3. The learned Standing Counsel for respondents 4 and 5 also does not dispute this position.

Accordingly, this Writ Petition stands disposed of holding that the petitioner will be liable to provide additional performance guarantee only if he is required to do so in terms of Ext.P2 Government Order and not otherwise. The petitioner states that he has not been able to execute the agreement on account of the

demand for additional performance guarantee by the Corporation.
In the facts and circumstances noticed above, the petitioner shall be given a period of two weeks from today to execute the agreement after complying with all necessary formalities.

**Gopinath.P.
Judge**

csi

APPENDIX

PETITIONER'S EXHIBITS:

EXT P1: TRUE COPY OF THE LETTER DATED 7.3.2020 OF THE 5TH RESPONDENT ALONG WITH THE COVER, RECEIVED BY THE PETITIONER ON 14.3.2020.

EXT P2: TRUE COPY OF THE GO(P) NO.1/2019 DATED 10.1.2019

EXT P3: TRUE COPY OF THE LETTER DATED 4.5.2020

EXT.P4: TRUE COPY OF THE LETTER DATED 7.5.2020

EXT.P5: TRUE COPY OF THE INTERIM ORDER DATED 28.3.2019 IN WRIT PETITION (CIVIL) NO7380.2019