



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Judgment of Hon'ble High Court dated 08/05/18 in W.P.(C)No.32319/2016 and Common Judgment of Hon'ble Division Bench dated 29/11/2018 in W.A.No.1873 & 2052 of 2018- Complied with- Orders Issued

LOCAL SELF GOVERNMENT (DC) DEPARTMENT

G.O.(Rt)No.466/2019/LSGD Dated,Thiruvananthapuram, 28/02/2019

- Read 1 Judgment of Hon'ble High Court dated 08/05/2018 in W.P.(C) No. 32319/2016
- 2 Common Judgment dated 29/11/2018 in W.A.No.1873 & 2052 of 2018.
- 3 Representation dated 17/12/2018 submitted by Shri. Paulson Chacko
- 4 Letter No.1620/2016/KSUDP dated 26/2/19 from the Mission Director, AMRUT

ORDER

Sri.Paulson Chacko, an A category Contractor, was awarded with the work "Strengthening of distribution network in Kochi - Replacement of old damaged 700 mm premo pipe from Port Bristo Road to east end of Matanchery Bridge using 700 mm DI K9 pipe and 710 mm HDPE Pipe (Package No.KCH-WS-02C)" under KSUDP.

2. As per the accepted schedule of the work at item 8 the petitioner has to procure 1200 mm Dia MS casing pipe which has to be pushed through a culvert under a railway track. Accordingly the petitioner procured the same from the manufacturer. Advance payment (60%) for the 1200 mm MS pipe was also effected to the contractor. After clearing the earth near the culvert area it was found that 1200 mm Dia MS casing pipe cannot be accommodated in the culvert since another utility duct is also passing through the culvert. When the said fact was reported, the Project Implementing Authority directed to procure and lay down 800 mm Dia 10 mm thick

MS pipe as casing pipe including anti-corrosive epoxy paint coating. The time of completion of the work was extended by the Empowered Committee of KSUDP upto 31.03.2014. The petitioner completed the aforesaid work in the extended period of time itself. Thereafter when the bill module was prepared and send by Kerala Water Authority, two items were rejected by the Empowered Committee of KSUDP. The Empowered Committee of KSUDP refused to sanction the amount utilized for procuring 1200 mm Casing pipe and refused to accept the balance pipe material and also reduced the unit price for the extra dismantling work carried out by the petitioner to connect the new pipe. The Contractor, aggrieved by the nonpayment of the amount in respect of the aforesaid two items approached the Hon'ble High Court by filing WP(C) 32319/2016

3.As per the Judgment read as 1st paper above the Hon'ble High Court has directed the respondents to effect payment to the petitioner towards procurement of 1200 mm casing pipes within a period of 3 months from the date of receipt of copy of the judgment. The Hon'ble Court has not specifically allowed the petitioner's claim for extra dismantling work carried out by him. Against this Judgment the petitioner preferred WA No. 2052/2018 (against the rejection of his claim towards the additional dismantling work) and State preferred WA No. 1873/2018. These Writ Appeals were disposed of by the Hon'ble Court by the common judgment read as 2nd paper above. In this common judgment the Hon'ble Division Bench confirmed the judgment of the learned Single Judge leaving it open for the contractor to make a representation to the authorities for fixing a separate rate for the additional works done by him. Accordingly as per representation read as 3rd paper above, Sri.Paulson Chacko has requested to fix a new rate suitably which may not be below the rate fixed in the BOQ, after obtaining a proper additional certificate if any, from the appropriate authority.

4. In the common judgment read as 2nd paper above, the Hon'ble Division Bench has also observed that, the declaration of the learned Single Judge that the contractor is entitled to receive payment towards 1200mm MS pipe procured by him was the correct decision based on the recommendation of the competent authorities. Hence the Hon'ble Division Bench has not interfered with the said finding of the learned Single Judge.

5. As per letter read as 4th paper above, the Mission Director AMRUT (successor entity of KSUDP) has requested to give permission to the Additional Project Manager, JnNURM Project Circle for effecting payment to the petitioner towards the procurement of 1200mm casing pipe, from the Joint Account being maintained by the Additional Project Manager, JnNRUM Project Circle, Kochi and the Secretary, Kochi Corporation, to comply with the judgments read as 1st and 2nd

papers above.

6. Government have examined the matter in detail and are pleased to accord sanction to the Additional Project Manager, JnNRUM Project Circle, KWA, Kochi and Secretary, Kochi Municipal Corporation to effect the balance payment to the petitioner towards the procurement of 1200mm Dia MS casing pipe after verifying the admissibility of the claim of the petitioner, from the Joint Account being maintained by the Additional Project Manager, JnNRUM Project Circle, KWA, Kochi and the Secretary, Kochi Municipal Corporation. KWA shall take the unused 1200mm Dia MS casing pipe after effecting payment.

7. The Chief Engineer, Central Region, KWA, Kochi shall also examine and certify the admissibility of the claim of the Petitioner in the representation read as 3rd paper above for fixing new rate for the extra dismantling work carried out by the petitioner and furnish report to Government. Further action in the matter will be taken on receipt of the report.

8. The Judgment of Hon.High Court read as 1st and 2nd papers above is complied with accordingly.

(By order of the Governor)
SINDHU. L.
SPECIAL SECRETARY

To:

Director, Urban Affairs

Advocate General, Ernakulam(With C/L)

Mission Director, AMRUT

Managing Director, Kerala Water Authority

Chief Engineer, Central Region, KWA, Kochi

Additional Project Manager, JnNRUM Project Circle, KWA, Kochi

Secretary, Kochi Municipal Corporation

The Principal Accountant General (Audit/ A&E/ LBA &A)

The Information Officer, (Web & New Media) I&PRD

Executive Director, Information Kerala Mission (for publishing in the website of LSGD)

Stock File/Office Copy

Forwarded /By order

Sindhu L.
Section Officer