
(2021) 06 KL CK 0188

In the High Court Of Kerala

Case No : Writ Petition (C) No. 11567 Of 2021

P.Anil Kumar

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 02-06-2021

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2021) 06 KL CK 0188

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : A.Shafeek, K.P.Harish

Final Decision : Disposed Of

Judgement

N.Nagaresh, J

1. The petitioner, who was successful in the tender floated by the Stationery Controller for procurement of waste papers and old text books, has filed

this writ petition seeking to extend the period of tendered work.

2. Pursuant to a tender process, the petitioner was selected to remove the old text books from different depots across Kerala. As per the contract, the

petitioner had to lift and remove the old text books on or before 31.03.2021. According to the to the petitioner, though the petitioner approached

various Depots, he was not permitted to lift the books for want of instructions to the Depot heads. Instructions in this regard were issued only on

16.03.2021 and the period was to expire on 31.03.2021.

3. Immediately thereafter, the 1st respondent issued tender notification for the same work for the year 2021-'22. However, the respondents extended

the time given to the petitioner up to 31.05. 2021 as per Ext.P7. Even this

extension of time by two months was insufficient to carry out even a part of the work, contends the petitioner. The petitioner therefore submitted Ext.P8 representation seeking to further extend the time. Ext.P8 has not even been considered by the respondents, rues the petitioner.

4. The learned Government Pleader, on the other hand, argued that this is a purely contractual issue falling within the sphere of commercial law and this Court should not entertain this writ petition under Article 226 of the Constitution of India as no fundamental or statutory right of the petitioner is violated by the respondents.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the respondents.

6. The petitioner has responded to Ext.P1 notification dated 26.02.2020 and was selected for the work. The petitioner was selected and the agreement was confirmed, but necessary instructions were given to heads of various offices only on 05.03.2021, as per Ext.P2. Furthermore, there were certain litigations also, pending in the matter. Therefore, the respondents themselves extended the period of contract till 31.05.2021.

7. It is not disputed that the Covid-19 Pandemic and the pending litigations, have affected the execution of work. It is submitted at the Bar that the proceedings for fresh tenders pursuant to Ext.P6 have not been finalised so far. In the said circumstances, this Court is of the opinion that the request made by the petitioner as per Ext.P8 is liable to be considered by the 2nd respondent in accordance with law.

The writ petition is therefore disposed of directing the 2nd respondent to consider Ext.P8 representation submitted by the petitioner for enlargement of time, within a period of one month. In the meanwhile and till a decision is taken by the 2nd respondent on Ext.P8 representation, the petitioner should be permitted to carry out the work awarded to him on the same conditions as stipulated in Ext.P5 proceedings.