

(2021) 11 KL CK 0011
In the High Court Of Kerala
Case No : Writ Petition (C) No.16906 Of 2021

Paulose Abraham

APPELLANT

Vs

Kerala Water Authority, Represented By The Managing
Director, Jalabhavan, Thiruvananthapuram

RESPONDENT

Date of Decision : 01-11-2021

Acts Referred:

Citation : (2021) 11 KL CK 0011

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : Joby Jacob Pulickeedy, Anil George, Dajish John, Harikrishnan P,
P.Benjamin Paul, Saji Varghese

Final Decision : Disposed Of

Judgement

N.Nagaresh, J

1. Petitioner, who is a registered Government Contractor carrying out contract works for the Kerala Water Authority, has approached this Court seeking to direct the 3rd respondent to extend the time for completion of the work till 30.12.2021.

2. The petitioner submits that for the work 'WSS to Vakathanam Panchayat in Kottayam District - Design, Construction and Commissioning of 12 metre dia well cum pump house and allied works at Peroor in Mannarkkad Village in Kottayam District', the petitioner submitted tender which was found by the Kerala Water Authority to be the lowest. An agreement was entered into and the petitioner was entrusted with the work. Due to the delay caused and nature of the work, the said agreement was extended from time to time executing further supplementary agreements. The last of such supplementary agreements was on 31.03.2021. By the said supplementary agreement, the petitioner had to complete the work by 30.04.2021.

3. The petitioner would submit that the work could not be completed within time due to the Covid-19 lockdown and also due to the outbreak of Tauktae Cyclone.

The petitioner would submit that he has carried out almost 95% of the work and only 5% work is remaining.

4. The petitioner therefore submitted a representation before respondents 3 and 4 seeking to issue bill amounts for the works already completed and to grant a breathing time till 30.12.2021 to complete the work, taking into consideration the Tauktae Cyclone and Covid-19 pandemic. The respondents have not considered the request of the petitioner favourably. It is in such circumstances that the petitioner is before this Court.

5. The learned Standing Counsel representing the respondents submitted that the original tender and agreement were of the year 2013. More than eight years have elapsed and the petitioner could not complete the work. In such circumstances, there is no bona fide on the part of the petitioner in seeking further extension of time. The writ petition is therefore without any merit and it is liable to be dismissed, contended the Standing Counsel for the respondents.

6. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

7. It is true that the original work was awarded to the petitioner and an agreement was entered into on 25.06.2013. However, it appears that there were some additions to the work and supplementary agreements were executed from time to time. The last of such supplementary agreement was on 31.03.2021. The said agreement was signed by the petitioner as well as the 3rd respondent. The petitioner had to complete the work by 30.04.2021.

8. The petitioner could not complete the work by the said deadline. It is evident that the Covid-19 pandemic situation and the consequential lockdown as well as the Tauktae Cyclone that hit the area, have affected the progress of the work of the petitioner. It is not disputed that the work relates to Meenachil River which was affected by the Tauktae Cyclone. Therefore, taking into consideration the fact that the petitioner has completed substantial portion of the work, this Court is of the view that a reasonable extension of time should be granted to the petitioner for completing the work.

In such circumstances, the writ petition is disposed of directing the respondents to permit the petitioner to complete the work undertaken by him by 31.12.2021. It is made clear that the respondents will be at liberty to proceed against the petitioner in accordance with law if the petitioner does not complete the work by 31.12.2021.