

(2020) 12 KL CK 0163

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 27526 Of 2020 (M)

Rajesh Varkey

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 09-12-2020

Acts Referred:

Citation : (2020) 12 KL CK 0163

Hon'ble Judges : P.V. Asha, J

Bench : Single Bench

Advocate : Jomy George, R. Padmaraj, M.J. Benny, Deepak Mohan, Chitra N. Das, Rishab S., R. Ajith Kumar, Princy Xavier

Final Decision : Disposed Of

Judgement

1. The petitioner is a contractor, who has been awarded the work as per Ext.P1 selection notice dated 06.11.2020. Towards the Performance

Guarantee and Additional Performance Guarantee, petitioner has requested for adjustment of Ext.P2 bill, submitting Ext.P3 and Ext.P4 representation

producing bill.

2. It is stated that, the 4th respondent thereupon forwarded Ext.P2 representation, along with the bill note as per Ext.P4 letter to the 3rd respondent.

As per Ext.P5 letter, the representation has been rejected stating that, as per Ext.P6 Government Order, the pending bill amount would be accepted as

guarantee for new works being awarded, only on the basis of indemnity certificate issued only in EMLI application on the bills registered from

01.04.2020 onwards.

3. The learned counsel for the petitioner points out that, this Court has in various judgments allowed manual adjustment of bills since the EMLI

application is not in operation.

4. Heard the learned Government Pleader also. It is not disputed that, EMLI application is not working. Therefore Ext.P6 is set aside. There shall be a

direction to the 3rd respondent to reconsider the request of the petitioner and to take appropriate steps for the adjustment of the bills as requested by

the petitioner against the Performance Guarantee as well as Additional Performance Guarantee within a period of two weeks.

5. In case the EMLI application is not rectified, the respondents shall see that, the bill is adjusted manually. Corresponding extension shall be given to

the petitioner to execute the Agreement and to commence the work.

This Writ Petition is disposed of accordingly.