



GOVERNMENT OF KERALA

Abstract

Disaster Management Department- Judgement dated 03.07.2023 of Hon'ble High Court of Kerala in WP(C) No. 11834/2021 filed by Sri.Visakh M.R - Complied with - Orders issued.

DISASTER MANAGEMENT(A)DEPARTMENT

G.O.(Rt)No.258/2024/DMD Dated,Thiruvananthapuram, 29-02-2024

- Read 1.GO(Rt)No. 4358/2015/DMD dated 13.08.2015
2.GO(Rt)No.49/2019/DMD dated 22.01.2019.
3.Representations dated 23/01/2021 & 12.09.2023 filed by Sri.Visakh M.R
4.Judgement dated 03/07/2023 of Hon'ble High Court of Kerala in WP(C) No.11834/2021
5.Letter No. CEIA/6113/2023-(W1)dated 18/01/2024 of Chief Engineer, Irrigation & Administration

ORDER

As per the Government order read as 1st paper above, Government have accorded Administrative Sanction for the work 'Reconstruction of existing drain from Marakkada road to Kuriathi pump house' under Operation Anantha for an amount of Rs.63,00,000/-. As per the Government order read as 2nd paper above, Government have issued Revised Administrative Sanction for an amount of Rs. 85,00,000/- for the above work.

As per the 3rd paper above, Sri.Visakh M.R who carried the work 'Reconstruction of existing drain from Marakkada road to Kuriathi pump house' under Operation Anantha filed a representation before Government alleging non payment for the entire works. He has pointed out that the entire work was completed almost 4 years ago and it is after multiple rounds of litigation that the admitted amount have been released to him. It is alleged that the non payment of the amounts for the work factually executed by him on the ground as it is not reflected in the Measurement book is both illegal and unjust and if a joint inspection is carried out at his expenses it would be clear that the measurements recorded in the M Book are inconsistent with the ground realities and that the

payment now released to him does not reckon some of the items of the works that has been executed and does not take into account the entire quantity of works executed by him.

The petitioner had filed WP(C) No.11834/2021 before the Hon'ble High Court of Kerala for early disposal of Ext.P9 (representation dated 23/01/2021). The Hon'ble High Court disposed the above writ petition with a direction to the 1st respondent (Secretary, Disaster Management Department) to consider and pass appropriate orders in Ext.P9, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a certified copy of this judgement.

Accordingly the Under Secretary to Government, Disaster Management Department heard the petitioner on behalf of the Principal Secretary, Disaster Management on 12.10.2023 at 11.30 am. The petitioner reiterated the contentions raised in the Ext.P9. The Executive Engineer, Minor Irrigation Department was also present at the hearing.

The Chief Engineer, Irrigation Department has reported that Sri.Visakh.M.R, Govt. Contractor had executed an agreement vide No.33/SEMU2015-16, dated 25.11.2015 with the Superintending Engineer, Minor Irrigation Circle, Thiruvananthapuram to carry out the work under Disaster Management, "Operation Anantha - Reconstruction of existing drain from Marakkada road to Kuriyathy pump house road Erumakkuzhy in Thiruvananthapuram Corporation". The site was temporarily handed over to the contractor on 21.10.2015 with a time of completion up to 15.12.2015. As per the request of the contractor time of completion was extended up to 31.03.2016. The work was completed on 30.03.2016. Since the work was arranged under Disaster Management Operation Anantha Programme for flood mitigation, some extra items had to be executed due to the unforeseen site conditions. All these items were included while preparing the Revised Estimate and measurements were taken and recorded in the Measurement Books No.317/13-14,318/13-14,328/13-14.

Administrative Sanction for the work was issued initially for an amount of Rs.63,00,000/- vide GO(Rt)No. 4358/2015/DMD dated 13.08.2015. Technical Sanction for the work was issued for an amount of Rs.57,50,000/- vide order No.38/CE(1&A)2015-16 dated 19.08.2015. The PAC of the work is Rs.56,35,173/-. Irrigation Department made all arrangements to carry out the work in accordance with the agreement conditions. During the execution of the work some extra items had to be executed. These extra items were found quite essential for the proper completion of the work both in the interest of the

Government & Public. Government have issued Revised Administrative Sanction for an amount of Rs. 85,00,000/- for the work. Accordingly, Revised Estimate was prepared including all the changes involved in the work. The Revised Estimate was sanctioned for an amount of Rs. 65,61,911.24/-.

Irrigation Department has recorded the actual executed quantities of the work in the Measurement Book. The entire actual executed quantity in connection with the work were measured and recorded in the Measurement Books by the Assistant Engineer concerned and the same had been check measured by the Assistant Executive Engineer in accordance with the relevant provisions in the PWD Manual. The contractor had accepted the measurements and quantities recorded in the M-Book without any objection and has signed the same.

Government have examined the matter in detail and hereby reject request in the representations submitted by the petitioner for the following reasons:

1. The Irrigation Department officials measured the entire actual executed quantities of the work and recorded the same in the M Book. The payment of the entire work executed by the petitioner is in accordance with the agreement conditions and revised estimate and has already been effected.
2. The contractor had accepted the measurements and quantities recorded in the Measurement Book without any objection and he has already been paid the entire amount for the quantum of work he actually executed.
3. Since the work was completed on 30.03.2016, the request of the petitioner for a joint inspection at this distance of time does not merit consideration as it will not reflect the conditions at the time of completion of the work.

The direction contained in the Judgement dated 03/07/2023 in WP(C) No.11834/2021 of Hon'ble High Court of Kerala is complied with accordingly .

(By order of the Governor)
TINKU BISWAL
PRINCIPAL SECRETARY

To:

The Accountant General (Audit)(A&E) Kerala, Thiruvananthapuram
The Commissioner, Land Revenue, Thiruvananthapuram.
The Commissioner, Disaster Management
The District Collector, Thiruvananthapuram
The Cheif Engineer, Irrigation Department
The Member Secretary, Kerala State Disaster Management Authority,
Sri.Visakh.M.R, S/o D.Manoharan

Attukal Bhavanam, Sastri Nagar,Karamana, Thiruvananthapuram.

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

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Section Officer