



**GOVERNMENT OF KERALA**



**Abstract**

CSIND - Improvement of IWT route from Eranhikkal to Korappuzha from Ch. 412.82 to Ch.418.32 Km in Kozhikkode district- Judgment dated 03/07/2023 in WP(C) 21142/ 2023 of the Hon'ble High Court filed by Minartech Developers Pvt. Ltd – Judgment Complied with - Orders issued.

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**COASTAL SHIPPING & INLAND NAVIGATION (A) DEPARTMENT**

**G.O.(Rt)No.8/2024/CSIND Dated, Thiruvananthapuram, 07-03-2024**

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- Read: 1. Letter No.18/MD/INDT/2021 dated 29/05/2023 from Managing Director, Minartech Developers Pvt. Ltd.
2. Letter no D2-3105/DIR/INDT/16 dated 19/06/2023 from the Director, Inland Navigation Department.
3. Judgment of the Hon'ble High Court dated 03.07.2023 in WP(C) No. 21142/ 2023 filed by Minartech Developers Pvt. Ltd.
4. Letter no.W8-91/CE/IN/2018 dated 27-2-2024 from the Chief Engineer, Inland Navigation & Kuttanad Package, Alappuzha.

**ORDER**

As per the representation read as first paper above, the Managing Director, Minartech Developers Pvt. Ltd., has requested to cancel the order no.D2-3105/DIR/INDT/2016 dated 22/05/2023 of the Director, Inland Navigation Department, by which they were terminated from the contract for the work improvement of the IWT route from Eranhikkal to Korappuzha from Ch. 412.82 to Ch. 418.32 km in Kozhikkode district. It has also been pleaded therein to give him an opportunity to complete the work without any escalation of cost and in a time-bound manner and not to retender the work at the risk and cost of the petitioner.

2. The Director, Inland Navigation Department, as per letter read as second paper above has reported that the above work site was handed

over to the petitioner on 5/6/2020, with a completion period of 365 days, and the main item of work, dredging, was not even started by the contractor within that time period. Despite the contract term being extended twice, the contractor failed to take any action to complete the work during that time period and did not submit the requested work plan. Later, based on the recommendation of the Executive Engineer, Kozhikode, the contractor was terminated at risk and cost from the work, as there were no impediments for the contractor to complete the work. But later, on the basis of the application and the work plan submitted by the contractor, the termination order issued by the Director, IND, was revoked by the Chief Engineer (IN and KP) as per Proceedings No. W6-91/CE/IN/2018 dated 20/8/2022 and time was allowed until January 30, 2023, to complete the work with the supplementary agreement. Again, there was no progress in the work on the basis of the work plan submitted by the contractor. Hence, as directed by the Chief Engineer (IN and KP) in his proceedings mentioned above, the Director, Inland Navigation Department has terminated the contract with risk and cost of the contractor.

3. While considering the request of the petitioner, vide his letter dated 10.07.2023, he has also submitted a copy of the judgment in WP (C) No.21142/2023 dated 03.07.2023 read as III<sup>rd</sup> paper above, in which the Hon'ble High Court has directed the 1<sup>st</sup> respondent, Secretary, CSIND, to consider and pass appropriate orders in the representation dated 29.05.2023(Ext. P3), after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of the judgement, and also directed that till final orders are passed in Ext. P3, the re-tender proceedings based on Ext. P2 shall be deferred, if not already notified. The time limit for complying with the judgment was further extended twice.

4. As directed by the Hon'ble High Court, the petitioner was heard on 9/8/2023, and subsequently, a site visit was carried out by the 1<sup>st</sup> respondent, Principal Secretary, CSIND, to assess the averment made by the party. At the time of the site visit, it was understood that the transportation of dredged sand during low tide is strenuous, and there is also the unpredictability of sand shifting at Pozhi. After the site inspection, the petitioner was instructed to provide a list of sites for

dumping the dredged material to the Inland Navigation Department for an assessment of its feasibility. The Minartech Developers Pvt. Ltd., as per the letter dated 27.12.2023, have submitted an alternative plan to dump the sand on vacant sites, wherein they have given a plan for dredging and transportation of the dredged sand to sea during high tide time.

5. The Chief Engineer, Inland Navigation & Kuttanad Package, vide letter read as 4<sup>th</sup> above, has reported that the petitioner has informed in writing that as soon as permission to start the work is obtained, the work can be started in the month of March and the work can be completed by the month of May 2025, and he has also submitted the following programme chart containing the quantity of 2,03,666 m<sup>3</sup> of spoil to be dredged and removed out of the total of 218661 m<sup>3</sup> submitted by the petitioner:

Month	year	Quantity
March	2024	11000 M <sup>3</sup>
April	2024	12000 M <sup>3</sup>
May	2024	13000 M <sup>3</sup>
June	2024	13000 M <sup>3</sup>
July	2024	10000 M <sup>3</sup>
August	2024	6000 M <sup>3</sup>
September	2024	7000 M <sup>3</sup>
October	2024	10000 M <sup>3</sup>
November	2024	17000 M <sup>3</sup>
December	2024	17000 M <sup>3</sup>
January	2025	19000 M <sup>3</sup>
February	2025	20000 M <sup>3</sup>
March	2025	20000 M <sup>3</sup>
April	2025	20000 M <sup>3</sup>
May	2025	8666 M <sup>3</sup>
	<b>Total</b>	<b>203666 M<sup>3</sup></b>

The Chief Engineer has also recommended giving the petitioner an opportunity to complete the work as per the volumes reported in the programme chart with the following conditions to ensure that the party does the work, failing which the tender will be cancelled:

a. Soon after getting permission, the work should be started at once and completed within or before the period as per the chart.

b. Penalty shall not be charged for the period from the period of suspension of work to the period of resumption.

c. The quantity of dredged or removed spoil shall be verified /ensured by the concerned officers of the department from time to time.

d. The total extent of spoil removed on the 5<sup>th</sup> and 9<sup>th</sup> month after the resumption of work should be informed to the department, and in case of any variation found in the extent of spoil removed or depicted in the programme chart, the contractor should be warned by the agreement authority. The variation in quantity of spoil reported for the 5<sup>th</sup> and 9<sup>th</sup> months can be relaxed by 10% and 5%, respectively.

e. If the work progress is found to be unsatisfactory in the 11<sup>th</sup> month, the contractor should be given a warning notice to terminate the work, and if the required progress is not achieved in the 12<sup>th</sup> month, action should be taken to terminate the contractor without any warning.

f. As the programme chart submitted by Minartech Developers Pvt. Ltd. shall come into effect from the date of sanction order, they shall submit a revised date chart according to this volume to the Agreement Authority.

6. As there is no loss to the government and a new tender will entail delay and likely higher cost (with no change in ground challenges), by considering the recommendation of the Chief Engineer, Inland Navigation & Kuttanad Package, and the assurance of the Managing Director, Minartech Developers Pvt. Ltd., the government have examined the matter in detail and decided to allow one more chance to the petitioner to execute the work; improvement of the IWT route from Eranhikkal to Korappuzha from Ch. 412.82 to Ch. 418.32 km in Kozhikkode district as per the

program chart with the above conditions. The Inland Navigation Department will take further action to execute the work as per the programme chart and conditions mentioned above.

7. The direction of the Hon'ble High Court as per the judgment read as 3rd paper above is thus complied with, and the writ petition is disposed off accordingly.

(By order of the Governor)  
ASHOK KUMAR SINGH I A S  
PRINCIPAL SECRETARY

The Advocate General, Kerala, Ernakulam.(With C/L)

The Chief Engineer (Inland Navigation & Kuttanad Package),  
Alappuzha.

The Director, Inland Navigation Department,Asramam, Kollam.

The Managing Director, Minartech Developers Pvt. Ltd., Erumelikara,  
Puthanpally Bus Stop, Kumarapuram P.O, Ernakulam, 683565.

The Principal Accountant General (Audit), Kerala,  
Thiruvananthapuram.

The Accountant General (A&E), Kerala, Thiruvananthapuram.

I&PR (Web & New Media)Department (for publishing in Government  
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Section Officer