

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

MONDAY, THE 5<sup>TH</sup> DAY OF FEBRUARY 2024 / 16TH MAGHA, 1945

WP(C) NO. 1711 OF 2024

PETITIONER:

SURESH G, AGED 57 YEARS, S/O. LATE P.GOPINATHAN  
SUNITHA BHAVAN AVANAVANCHERRY VILLAGE, CHIRAYANKEEZHU  
TALUK AVANAVANCHERRY POST - , ATTINGAL  
THIRUVANANTHAPURAM DISTRICT., PIN - 695103

BY ADVS.  
GEEN T.MATHEW  
S.RAMESH BABU (SR.)

RESPONDENTS:

- 1 KERALA WATER AUTHORITY, JALABHAVAN VELLAYAMBALAM, PMG  
JN POST - 695 033 THIRUVANANTHAPURAM DISTRICT.  
REPRESENTED BY ITS MANAGING DIRECTOR KERALA WATER  
AUTHORITY JALABHAVAN VELLAYAMBALAM, PMG JN  
THIRUVANANTHAPURAM DISTRICT-695033
- 2 THE SUPERINTENDING ENGINEER  
PUBLIC HEALTH CIRCLE KERALA WATER AUTHORITY OBSERVATORY  
HILLS, THIRUVANANTHAPURAM DISTRICT - 695033

SRI.GEORGIE JOHNY - SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
05.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Sri.Ramesh Babu, learned senior counsel, instructed by Sri.Geen T.Mathew – appearing for the petitioner, submitted that his client has been constrained to approach this Court impugning Ext.P3 because, it virtually disqualifies him from continuing further with the tendering processes notified by the Kerala Water Authority (KWA), solely on the ground that the financial credentials he has submitted, while bidding in favour of a Private Limited Company - wherein he is the Director, is irregular and improper. The learned senior counsel submitted that, when his client is admittedly the Director of the company, his experience and credentials can be used by them, which has been done along with their bid application; and therefore, that Ext.P3 is untenable and beyond law. He thus prayed that Ext.P3 be quashed.

2. Sri.Georgie Johny – learned standing counsel for the KWA, however, submitted that Ext.P3 is only a notice asking the petitioner to show cause why the bid of the company be not rejected because they rely on his experience and credentials, which could not have been used by the latter. He submitted that if the petitioner is able to explain the notice cogently,

based on Ext.P4 explanation - which he has already submitted, the Superintending Engineer is willing to hear him and take a final decision thereon without any avoidable delay.

3. Sri.Ramesh Babu – learned senior counsel, in reply, submitted that, if the Superintending Engineer is willing to consider Ext.P4 dispassionately, his client would not stand in the way of this writ petition being ordered on such terms; however, praying that until such time, the tender processes be not allowed to be finalised.

4. No doubt, if the petitioner is able to explain cogently to Ext.P3, 'KWA' must consider if the bid of the company in question requires to be rejected. Obviously, this is a matter for the Superintending Engineer to consider appropriately and it would not be prudent for this Court to enter into the controversy at this stage, since it would certainly involve assessment of facts and documents, which is proscribed while this Court acts under Article 226 of the Constitution of India.

In the afore circumstances, I allow this writ petition and direct the second respondent to take up Ext.P4 explanation of the petitioner and enter into a final decision thereon, after

hearing him, as also the authorised representative of the company in question; thus culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not later than two weeks from the date of receipt of a copy of this judgment.

Needless to say, until such time as the afore is done and the resultant order communicated to the petitioner and to the company in question, all further action pursuant to the bid notification shall stand deferred, and will be taken forward only depending upon the decision to be so entered into.

**Sd/- DEVAN RAMACHANDRAN**

**JUDGE**

stu

**APPENDIX OF WP(C) 1711/2024**

PETITIONER EXHIBITS

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|----------------|--|
| Exhibit P1     | TRUE COPY OF THE NOTICE INVITING TENDER<br>NO.147/2023-24/KWA/PHC/DI/TVM VOLUME 1<br>DATED 06.11.2023 ISSUED BY THE 2 ND<br>RESPONDENT               |
| Exhibit P1 (a) | TRUE COPY OF THE NOTICE INVITING TENDER<br>NO.147/2023-24/KWA/PHC/DI/TVM VOLUME 2<br>SCOPE OF WORK DATED 06.11.2023 ISSUED BY<br>THE 2 ND RESPONDENT |
| Exhibit P2     | TRUE COPY OF THE BID SUBMISSION<br>CONFIRMATION DATED 01.12.2023 WITH ALL<br>DOCUMENTS   |
| Exhibit P3     | TRUE COPY OF THE EMAIL DATED 02.01.2024<br>ISSUED BY THE 2 ND RESPONDENT TO THE<br>PETITIONER  |
| Exhibit P4     | TRUE COPY OF THE LETTER DATED 03.01.2024<br>FILED BY THE PETITIONER BEFORE THE 2 ND<br>RESPONDENT  |