

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 93 of 2022

K.G.G. Construction Pvt. Ltd., Thangmeiband
Maisnam Leikai, Imphal represented by its
Managing Director namely Koijam Gourangagopal
Singh, aged about 55 years, S/O Koijam
Joykrishna Singh of Thangmeiband Maisnam
Leikai, P.O.- Imphal & P.S. – Lamphel, District-
Imphal West, Manipur.

.....Petitioner

-Versus-

1. The State of Manipur represented by the Chief Secretary, Government of Manipur and its Office at Old Secretariat Complex Babupara, Imphal West District, Manipur – 795001.
2. The Manipur Development Society, Manipur represented by the Chairman, MDS and its Office at Secured Office Building North AOC, Imphal, Manipur, Pin No. 795001 and
3. The Project Director, MDS and its Office at Secured Office Building North AOC, Imphal, Manipur, Pin No. 795001.

.....Respondents

B E F O R E
HON'BLE THE ACTING CHIEF JUSTICE MR. MV MURALIDARAN

For the Petitioners	::	Mr. Ajoy Pebam, Advocate
For the respondents	::	Mr. Sh. Shyam Sharma, GA Mr. H. Kenajit, Advocate
Date of Hearing & Judgment & Order	::	27.03.2023

JUDGMENT & ORDER
(ORAL)

Heard Mr. Ajoy Pebam, learned counsel for the petitioner;
Mr. Sh. Shyam Sharma, learned Government Advocate for the first
respondent and Mr. H. Kenajit, the learned counsel for the respondents
2 and 3.

2. This writ petition has been filed by the petitioner seeking
issuance of a writ of mandamus directing the respondents to refund the
earnest money deposit of Rs.7,70,540/- at the earliest or within a period
of one month from the date of the order of this Court.

3. Mr. Ajoy Pebam, the learned counsel for the petitioner
submitted that the petitioner is a special class registered contractor by
profession under the Manipur Development Society (MDS). The
petitioner was awarded 10 works by the Chief Engineer, MDS and for
execution of the said works, he has deposited earnest money deposit
of Rs.7,70,540/- totally and the petitioner has also executed those
works without any complaint. But the respondents have failed to release

the bills for execution of the said contract works. Moreover, the respondents also failed to refund the earnest money deposit to the petitioner. In this regard, the petitioner submitted a representation on 26.2.2018 to the first respondent requesting to refund the earnest money and the petitioner has also submitted a representation to the third respondent on 24.4.2019. Despite receipt of the said representations, the respondents have not taken steps for refund of the earnest money deposited by the petitioner. Hence, the petitioner has filed this writ petition for the relief stated supra.

4. Mr. H. Kenajit, the learned counsel for the respondents 2 and 3 submitted that the works undertaken by the Manipur Development Society relate to the year 2009-2017 are under investigation by the CBI and all related files are under the custody of the CBI and, as such, the MDS is not in a position to refund the earnest money as requested by the petitioner. The learned counsel further submitted that the prayer of the petitioner can be granted only after due verification of the alleged dues from the relevant records of the MDS which are presently with the CBI.

5. In reply, Mr. Ajoy Pebam, the learned counsel for the petitioner submitted that all records and related files have been found in the custody of the Accounts Officer, MDS and if the CBI had seized all the relevant files, then how they have released the payment of the

contractors and deposited funds from different departments. Further, on one hand, the MDS claiming that all the relevant files have been seized by CBI and on the other hand, they have taken up some new works currently which is impossible without the relevant files. Moreover, during investigation of the CBI case, the Hon'ble Prime Minister, inaugurated the projects including the projects taken by the MDS on 4.1.2019. Presuming but not admitting the facts if the relevant records are seized, the then MDS may called records so that they could refund the liability or any deposit of the contractors.

6. At this juncture, Mr. H. Kenajit, the learned counsel for the respondents 2 and 3 argued that it is a fact that the CBI had seized all the relevant documents and the said documents are in their custody till date and any financial transactions can be done only after the ongoing investigation in connection with the financial irregularities in MDS by CBI is over. Further, the fund allocated for a particular project cannot be adjusted/transferred to another project and the inauguration was done for the completed projects only.

7. It appears that the earnest money deposit made by the petitioner are all related to the works done during the year 2010 and it is the say of the petitioner that due to renovation of his house, some of the work orders have been misplaced and, therefore, he could not claim refund immediately. Further, the earnest money deposit made by the

petitioner has not been disputed by the respondents. The respondents have also not disputed that the petitioner has not executed the works for which he claimed refund of the earnest money deposit. The only reason alleged by the third respondent in not settling the earnest money deposits to the petitioner is all the files are with the custody of CBI and as and when the files are received from the CBI, they are ready to refund the earnest money to the petitioner.

8. The petitioner contended that all the files are with the Accounts Officer of MDS. This has not been seriously disputed by the respondent authorities. However, they contend that any financial transactions can be done only after the ongoing investigation in connection with the financial irregularities in the MDS by the CBI is over.

9. Not a whit of material is produced by the respondents to show that the files relating to the works awarded to the petitioner, for which refund of earnest money deposit is sought by the petitioner, are with the CBI. It is the bounden duty of the respondent authorities to refund the earnest money deposited by the petitioner after the execution of the works. Similarly, no material has been produced by the respondent authorities to show that any complaint is pending against the petitioner in regard to the works allotted to him either with the CBI or any other police station. Therefore, there is no impediment

on the part of the respondent authorities in releasing the earnest money deposited by the petitioner for execution of the works.

10. Considering the facts and circumstances of the case and also taking note of the claim of the petitioner being bona fide, this Court directs the respondent authorities to refund the earnest money deposit of Rs.7,70,540/- to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

11. With the above observation and direction, the writ petition is disposed of. No costs.

ACTING CHIEF JUSTICE

FR/NFR

Sushil