

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WP(C) No.329 of 2022

For Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate. Mr. K. Debnath, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, G.A. Mr. K. De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)
_O_R_D_E_R_

28/03/2023

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. K. Debnath, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharjee, learned G.A. assisted by Mr. K. De, learned Addl. G.A. appearing for the respondents.

The petitioner has prayed for the following reliefs:

- i. Issue rule, calling upon the respondents and each one of them, to show cause as to why a writ of certiorari and/or in the nature thereof shall not be issued, for transmitting the records, lying with them, for rendering substantive & conscionable justice to the petitioner, and for quashing/setting aside the impugned memorandum dated 16.12.2021 and the impugned communication dated 28.03.2022 (Annexure-9 & 11 respectively supra).
- ii. Issue rule, calling upon the respondents and each one of them, to show cause as to why a writ of mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them, to forthwith revoke/rescind the impugned memorandum dated 16.12.2016 and the impugned communication dated 28.03.2022 (Annexure-9 & 11 respectively supra), and thereupon, direct them to clear the entire amounts, due and payable to the petitioner, for execution of the works, in connection with the agreements (referred to supra).
- iii. Call for the records, appertaining to this writ petition.
- iv. After hearing the parties, be pleased to make the rule absolute in terms of i to ii above."

The case of the petitioner is that after execution of the work in all aspects, the petitioner had raised his bill, but the same was not paid to him. Situated thus, the petitioner had filed an application before this Court seeking appointment of an Arbitrator, and by an order dated 19.02.2020, the same was disposed of, thereby negating the prayer of appointment of arbitrator, tendered by the petitioner, solely on the premise that the petitioner did not issue statutory

notice, within the meaning of Section-11 of the Arbitration & Conciliation Act, 1996.

Thereafter, in stern tune with the prescriptions, contained in Section-11 of this Act, the petitioner had submitted a prayer to the Chief Engineer, Public Works Department (Roads & Buildings), Government of Tripura dated 12.05.2020, thereby urging upon the said authority, to accept the nomination of an Arbitrator, made by the petitioner for resolution of the disputes raised by him. By this prayer dated 12.05.2020, the petitioner had tendered a claim of Rs.7,50,382/-. In response to the said prayer, the Chief Engineer, Public Works Department (Roads & Buildings), Government of Tripura made a communication to the petitioner thereby noting that the request for payments of the outstanding dues have not been denied by the Chief Engineer, Public Works Department (Roads & Buildings), Government of Tripura but the said request was not entertained, for non-fulfillment of the formalities by the petitioner, such as signing of the measurement Books, Bills and applying for extension of time etc. Further, by this communication dated 05.06.2020, the Chief Engineer, Public Works Department (Roads & Buildings), Government of Tripura had declined the nomination of the Arbitrator made by the petitioner.

Since, repeatedly, the respondents No. 3 and 5 were noting that the petitioner had completed the works, but the payments in connection therewith could not be made, because of non-fulfillment of the official formalities by him, the petitioner made a communication to the Executive Engineer, LTV Division, Public Works Department (Roads & Buildings), Manu, Dhalai Tripura, Government of Tripura dated 21.07.2020, whereby it was categorically informed that he would visit the chamber of the respondent No.5 on 23.07.2020 at 12.00 noon, for completing the official formalities, so that his outstanding dues, could be released at the earliest.

Hence, the present petition has been filed by the petitioner before this Court for redress.

In view of above, without expressing any opinion on merits, the present writ petition stands disposed of directing the petitioners to approach before the respondents and represent his case along with all relevant documents. Since, the matter pertains to financial benefits of the petitioner; the respondents are directed to consider the case of the petitioner in accordance with law within a period of three months from the date of receipt of the copy of this order.

Accordingly, the present writ petition stands disposed of. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

CHIEF JUSTICE (ACTING)

A. Ghosh



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