

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.372 of 2023

Sri Salil Acharjee

.....Petitioner(s);

Versus

The State of Tripura and others

.....Respondent(s).

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mrs. Riya Chakraborty, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.,
Mr. Karnajit De, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE T. AMARNATH GOUD**

Order

31/07/2023

Heard Mr. Somik Deb, learned senior counsel for the petitioner as well as Mr. Debalay Bhattacharya, learned Government Advocate for the respondents-State.

2. Petitioner, after being the successful tenderer under an NIT bearing No.11/EE/KLSD/2009-10 entered into an agreement with the respondents for execution of the work of "Construction of R.C.C Steel Bridge over Halai Cherra at ch. 0.00 km at Srirampur under Kailashahar Division, Tripura (N).(RIDF-XIII)" with the respondent-Executive Engineer, Public Works Department (Roads & Buildings), Kailashahar Division, Government of Tripura, for a contract value of Rs.3,67,84,455.00/-. Thereafter, the Letter of Intent was issued by the Senior General Manager (Engineer) at Tripura.

3. Petitioner has approached this Court with a grievance that his claim for price escalation and refund of security deposit along with interest at the rate of 18% from the due dates totaling Rs.1,03,86,516.00/- has not been

addressed. The stipulated date of completion of the work was 23.11.2013, but it got actually completed on 15.03.2017. Clause 44.1 of the Agreement provides for price escalation in the name of price adjustment. This applies to original contract period or extended period owing to departmental delay. He has also made a representation before the respondent-Executive Engineer, Public Works Department (Roads & Buildings), Kailashahar Division, vide Annexure-7 which was received on 20.04.2023, but has remained unredressed. Therefore, he has approached this Court.

4. Mr. Somik Deb, learned senior counsel for the petitioner, submits that the competent authority under the respondents-Department may be directed to dispose of the representation of the petitioner. Mr. Debalay Bhattacharya, learned Government Advocate for the respondents-State, submits that though instructions have not been furnished, but the material pleadings and enclosed documents show that petitioner has approached the respondent No.5-Executive Engineer, Public Works Department (Roads & Buildings), Kailashahar Division, after a delay of seven years from the date of completion of the work seeking escalation and refund of security. However, if the respondents are so directed, they may examine the claim of the petitioner and take a decision in accordance with law. However the decision, if any, to be taken by the respondents should not amount to reviving a stale cause of action.

5. Having considered the limited prayer made by learned senior counsel for the petitioner, in respect of petitioner's claim for escalation and refund of security deposit in connection with the agreement and the Work Order dated 12.11.2010 which was though scheduled to be completed by

23.11.2013, but got actually competed on 15.03.2017, we are of the view that this Court is not required to look into the merits of the claim of the petitioner as the dispute is on a factual note and involves the construction of the clauses of the agreement including Clause 44.1. Therefore, the writ petition is disposed of without making any comments on the case of the petitioner directing the respondent No.5 to take a decision upon his representation in accordance with law within a reasonable period, preferably 12(twelve) weeks from the date of receipt of the copy of this order after due scrutiny of all relevant records relating to the execution of the work under the agreement in question. Let it be made clear that we have not made any observation as to whether the cause of action, raised here, is alive or not.

6. Pending application(s), if any, also stands disposed of.

(T. AMARNATH GOUD), J **(APARESH KUMAR SINGH), CJ**