

GAHC040004272023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(C) 55/2023

1:M/s Durga Enterprise
Represented by Shri Gollo Tana,
S/o Late Gollo Kanu,
a Permanent Resident of Top Village, PO Mengio, PS Sagalee, Papum Pare District,
Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 3 Ors.
Represented by Secretary, Rural Development Department, Govt. of AP, Itanagar.

2:The Joint Director (RE)
Department of Rural Development
Govt. of Arunachal Pradesh Itanagar
Arunachal Pradesh 791111

3:The Project Director
DRDA
Yupia
Arunachal Pradesh 791111

4:M/s Haniya Enterprise
Registered Office at Doimukh
PO/PS Doimukh
Papum Pare District
Arunachal Pradesh

Advocate for the Petitioner : Marto Kato
Nyali Sora
M Tanga

Advocate for the Respondent : Binter Picha SC(RD)

Linked Case : WP(C) 464/2022

1:M/s Jumsi Enterprises and Anr.
Represented by Shri Taba Tahin

S/o Late Taba Takhe

Resident of Tamang Village
PO Kheel
PS Sagalee
Papum Pare District
Arunachal Pradesh.
Phone No 9394908766

2: M/s Durga Enterprise
Represented by Shri Gollo Tana
S/o Late Gollo Kanu
a Permanent Resident of Topo
Village PO Mengio
PS Sagalee
Papum Pare District
Arunachal Pradesh.
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3:The Project Director DRDA Yupia Arunachal Pradesh 791111

4:M/s Haniya Enterprise
Registered Office at Doimukh. PO and PS Doimukh
Papum Pare District Arunachal Pradesh.

Advocate for the Petitioner : Marto Kato
Advocate for the Respondent : Binter Picha

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 29.03.2023

Heard Mr. Marto Kato, learned counsel for the applicant. Also heard Mr. Binter Picha, learned standing counsel, Department of Rural Development, Government of Arunachal Pradesh, representing the Opposite Parties No. 1 to 3; and Mr. Adam Tatak, learned counsel, representing the Opposite Party No. 4.

This is an interlocutory application filed by the applicant for quashing of the Agreement/Memorandum of Understanding, dated 03.03.2023, signed between the Opposite Party No. 3 viz. Project Director, District Rural Development Agency(DRDA), Yupia; and Opposite Party No. 4 viz. M/s Haniya Enterprises, PO/PS: Naharlagun, Papum Pare District, having its registered office at Doimukh, PO & PS: Doimukh, Papum Pare District, for supply and procurement of materials under MGNREGA in respect of Sagalee CD Block (Package No. V).

The Agreement/Memorandum of Understanding, dated 03.03.2023, has been signed between the parties in terms of the letter of intent, dated 01.10.2022, bearing No. CD(RE)/MGNREGA/ PAPUM PARE/NIT/2020-21.

While praying for suspension of the Agreement/ Memorandum of Understanding, dated 03.03.2023, signed between the Opposite Party No. 3 viz. Project Director, District Rural Development Agency(DRDA), Yupia; and Opposite Party No. 4 viz. M/s Haniya Enterprises, Naharlagun, pursuant to a letter of intent, dated 01.10.2022, bearing No. CD(RE)/MGNREGA/PAPUM PARE/NIT/2020-21; it is the contention of the applicant that the said Agreement/Memorandum of Understanding, dated 03.03.2023, has been signed between the Opposite Party No. 3 viz. Project Director, District Rural

Development Agency(DRDA), Yupia; and Opposite Party No. 4 viz. M/s Haniya Enterprises, Naharlagun, in violation of this Court's order, dated 30.11.2022, passed in WP(c)464(AP)2022, wherein, the letter of intent, dated 01.10.2022, bearing No. CD(RE)/ MGNREGA/PAPUM PARE/NIT/2020-21, referred to above, was stayed till further orders. Accordingly, the applicant, who is the writ petitioner in WP(c)464(AP)2022, contends that the letter of intent, dated 01.10.2022, having been stayed by this Court till further orders vide order, dated 30.11.2022, passed in WP(c)464(AP)2022; the Opposite Parties No. 3 & 4, noted-above, could not have signed the Agreement/Memorandum of Understanding, dated 03.03.2023.

Mr. Picha, learned standing counsel, Department of Rural Development, Government of Arunachal Pradesh, representing the Opposite Parties No. 1 to 3, and Mr. Tatak, learned counsel, representing the Opposite Party No. 4, respectively, on the other hand, submits that the interim order, dated 30.11.2022, was modified by the Court vide order, dated 19.12.2022, passed in WP(c)464(AP)2022, whereby, this Court, on the prayer made by Mr. Kato, learned counsel for the petitioner, directing the matter to be listed on 23.01.2023; it was provided that the interim order shall remain in force till the next date fixed.

Mr. Picha, learned standing counsel, Department of Rural Development, Government of Arunachal Pradesh, representing the Opposite Parties No. 1 to 3, and Mr. Tatak, learned counsel, representing the Opposite Party No. 4, respectively, further points out that though WP(c)464(AP)2022 was directed to be listed on 23.01.2023, vide order, dated 19.12.2022; WP(c)464(AP)2022 came to be listed on 23.12.2022, wherein, this Court while granting time to the respondent No. 4 to file the counter affidavit and fixing the matter to be listed on 16.01.2023, had further provided that the interim order passed earlier, shall continue till 16.01.2023.

Accordingly, Mr. Picha, learned standing counsel, Department of Rural Development, Government of Arunachal Pradesh, and Mr. Tatak, learned counsel, appearing on behalf of their respective Opposite Parties, contends that the Agreement/Memorandum of Understanding, dated 03.03.2023, was signed between the Opposite Parties No. 3 and 4, respectively, as there was no stay of the letter of intent, dated 01.10.2022, beyond 16.01.2023, and as such, there was no bar for the parties to enter into an agreement as had been done between the Opposite Parties No. 3 and 4, respectively, in the instant case.

I have heard the learned counsels appearing for the parties at length.

On perusal of the Agreement/Memorandum of Understanding, dated 03.03.2023; it appears that the said Agreement/Memorandum of Understanding, dated 03.03.2023, was signed between the Opposite Parties No. 3 and 4, respectively, pursuant to a letter of intent, dated 01.10.2022, bearing No. CD(RE)/MGNREGA/PAPUM PARE/NIT/2020-21.

It is also noticed that though this Court, vide order, dated 30.11.2022, passed in WP(c)464(AP)2022, the letter of intent, dated 01.10.2022, was stayed till further orders, but, the said interim order, dated 30.11.2022, was modified in the proceeding held on 19.12.2022, wherein, this Court while fixing the writ petition to be listed on 23.01.2023, had provided that the interim order shall remain in force till the next date fixed. In other words, the interim order passed in WP(c)464(AP)2022 was to remain operative till 23.01.2023.

In the proceeding held by the Court on 19.12.2022, Mr. Kato, learned counsel for the writ petitioners(representing one of the applicants, herein), was shown to have been present.

Though the writ petition was directed to be listed on 23.01.2023, in the proceeding held on 19.12.2022, but, the writ petition came to be listed before the Court on 23.12.2022, on which date, Mr. M. Tanga, learned counsel for the petitioners, was shown to have been present.

In the proceeding held on 23.12.2022, this Court while granting time to the respondent No. 4 to file the counter affidavit; had directed the writ petition to be listed on 16.01.2023. While directing the writ petition to be listed on 16.01.2023; the interim order passed earlier, was also directed to be continued till 16.01.2023.

Though in the proceedings held on 19.12.2022, and 23.12.2022; Mr. Kato, learned counsel, and Mr. Tanga, learned counsel, representing the writ petitioners, respectively, were present before the Court and the alteration of the earlier interim order passed by the Court on 30.11.2022 in WP(c)464(AP)2022, was done by the Court in their presence, neither, Mr. Kato, nor, Mr. Tanga, learned counsels representing the petitioners, have taken any steps for extension of the interim order passed in WP(c)464(AP)2022, beyond 16.01.2023.

Thus, the record clearly reveals that there was no stay of the letter of intent, dated 01.10.2022, bearing No. CD(RE)/MGNREGA/ PAPUM PARE/NIT/2020-21, by this Court beyond 16.01.2023.

Under the aforesaid circumstances, the Agreement/ Memorandum of Understanding, dated 03.03.2023, signed between the Opposite Parties No. 3 and 4, respectively, pursuant to the letter of intent, dated 01.10.2022, bearing No. CD(RE)/ MGNREGA/PAPUM PARE/NIT/2020-21, cannot be said to be made in violation of any order of this Court, requiring any interference to the Agreement, dated 03.03.2023, at this stage.

In that view of the matter; this interlocutory application seeking stay of the Agreement/Memorandum of Understanding, dated 03.03.2023, is found to be devoid of merit and accordingly, stands dismissed.

JUDGE

Comparing Assistant