

GAHC040004192023



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

Case No. : WP(C)/322/2023

M/s Gakhil Construction
Age: 0
Occupation :
Address:a Proprietorship Firm

Represented by Sri. Tashi Phuntsok
Proprietor
PO/PS Bomdila
West Kameng District
Arunachal Pradesh.
(M) 8974639208

VERSUS

THE UNION OF INDIA and 3 Ors.

Age: 0
Occupation :
Address:Represented by Secretary
Rural Development
Govt. of India
Krishi Bhawan
New Delhi 1
2:THE STATE OF AP
Age: 0
Occupation :
Address:through the Secretary cum CEO
SRRDA
Rural Works Department (RWD)
Govt. of Arunachal Pradesh
Itanagar.

3:the Chief Engineer cum Empowered Officer
Age: 0

Occupation :
Address:SRRDA
Rural Works Department
Govt. of Arunachal Pradesh
Itanagar.

4:Executive Engineer cum PIU I
Age: 0
Occupation :
Address:Bameng Rural Works Division
Seppa
East Kameng District.

Advocate for : Tony Pertin
Advocate for : Marto Kato appearing for THE UNION OF INDIA and 3 Ors.:
Advocate ,

,

, appearing for 2,

3,

4, respectively.

**BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

03.10.2023

Heard Mr. T. Pertin, learned counsel for the petitioner. Also heard Mr. M. Kato, learned Dy. S.G.I. representing respondent No.1 and Mr. G. Tarak, learned Standing Counsel, Rural Works Department representing respondent Nos.2 to 4.

2. By filing this writ petition the petitioner has prayed for issuing a direction to the respondent authorities to release the outstanding bills amount of Rs.1,48,37,000/- (Rupees One Crore Forty Eight Lakhs Thirty Seven Thousand)

for the work executed by the petitioner for “*construction of road from Khenewa to Nampe (Stage-I)*” under Package No. AR/03/01/031 and to direct the respondent authorities to pay interest at lending rate of the Bank from the date of stop-payment order issued by the Union Ministry of Rural Development, i.e., 26.08.2019 as well as to release the Earnest Money Deposit amount of Rs.64,86,000/- (Rupees Sixty Four Lakhs Eighty Six Thousand) and the security money of Rs.1,73,67,800/- (One Crore Seventy Three Lakhs Sixty Seven Thousand Eight Hundred).

3. The case of the petitioner, in a nutshell, is that on 27.06.2012, the Government of Arunachal Pradesh published an NIT through the office of the Executive Engineer, Bameng RWD for the *construction of road from Khenewa to Nampe (Stage-I)* under Package No. AR/03/01/031 with estimated cost of Rs.2,73,05,500/-The petitioner also participated in the tender process which was duly accepted and was directed to proceed with the work by the competent authority vide No. SRWD/PMGSY/PH-X/Nampe/11-12, dated 18.04.2012.

4. Accordingly, the petitioner started execution of the project work and completed the work except for last minute finishing touches and the site Engineer measured and prepared the bills which were also paid. However, the balance amount of Rs. 1,48,37,000/- (Rupees One Crore Forty Eight Lakhs Thirty Seven Thousand) up to the month of May, 2022 remained to be paid due to the reason that Vide letter No. SRWD-10/PMGSY/1/2019, dated 01.11.2019, the Secretary, Rural Works Department, as per direction of the Ministry of Rural Development, Govt. of India vide Memo No. P- 17023/4/2017-RC [FMS-354735], dated 26.08.2019, issued an advisory addressed to the Chief Engineer-cum-Empowered Officer (PMGSY) not to release any payment against 12 controversial roads of East Kameng till further directions from the Government.

In the said list of 12 roads the *c/o Road from Khenewa to Nampe* was also included at Sl. No. 10.

5. On the basis of the complaint, various enquiries etc. took place. The Special Investigation Cell (SIC) of the Arunachal Pradesh Police took up the case being SIC[VIG] PS.ENQ.NO.37/2017 but no any anomalies were found to have been committed by the petitioner while executing the work of *c/o Road from Khenewa to Nampe*. As no anomalies were found against the above work, the SIC sought permission to close the enquiry vide SIC[VIG] PS.ENQ.NO.37/2017 dated 24.08.2022. Accordingly, the Under Secretary (Vigilance) Govt. of Arunachal Pradesh vide Letter No. VIG-33/2017/2034, dated 21.02.2023 informed the government approval of the request for the closure of SIC[VIG] PS. ENQ. NO.37/2017 regarding all the 12 [twelve] PMGSY Schemes including that of the road which is of concern to the petitioner. Thereafter, the Department of Rural Works, Govt. of Arunachal Pradesh vide letter No. SRWD-04/12RoadBameng/VIG/2023 has furnished the vigilance report to the Director [RC] Ministry of Rural Development, Govt of India, Krishi Bhawan, New Delhi. Although the petitioner approached the concerned authorities for payment of their outstanding amount, the concerned authorities were reluctant to pay the said amount. Being aggrieved by the inaction resorted to by the respondent authorities, the petitioner has filed the instant writ petition praying for appropriate relief.

6. Mr. T. Pertin, learned counsel for the petitioner, submits that since SIC[VIG] PS. ENQ. NO.37/2017 is closed with the vigilance report going in favour of the petitioner, the respondent authorities are required to clear the outstanding bill of 1,48,37,000/- (Rupees One Crore Forty-Eight Lakhs Thirty-

Seven Thousand) immediately with payment of annual interest at lending rate of the Bank to be counted from the date of stop-payment order issued by the Union Ministry of Rural Development, i.e, 26.08.2019. Mr. Pertin also submits that some equally situated firms included in the said list of 12 roads had filed WP(C) 194/2022 and WP(C) No. 263/2023 and this Court was pleased to direct the authorities to release the pending bill amount within 1 month from the date of receipt of the order copy. Mr. Pertin further submits that the respondent authorities, more particularly, the respondent No. 4, may also be directed to release the Earnest Money Deposit [EMD] amount of Rs. 64,86,000/- and the security money of Rs. 1,73,67,800/-.

7. Mr. M. Kato, learned Dy. S.G.I. representing respondent No.1 and Mr. G. Tarak, learned Standing Counsel, Rural Works Department representing respondent Nos.2 to 4 have conceded with the submission made by the learned counsel for the petitioner and have not disputed the entitlement of the petitioner to receive the amount of Rs.1,48,37,000/- (Rupees One Crore Forty Eight Lakhs Thirty Seven Thousand).

8. Having considered the submissions made by the learned counsel for both sides as well as the averments made in the petition and as the prayer of the petitioner is not opposed by the learned counsel for the respondents, this Court is of the opinion that the petitioner is entitled to receive the undisputed amount of Rs.1,48,37,000/- (Rupees One Crore Forty Eight Lakhs Thirty Seven Thousand) for the work executed by the petitioner for “*construction of road from Khenewa to Nampe (Stage-I)*” under Package No. AR/03/01/031.

9. Accordingly, the respondent authorities are directed to release the payment of Rs.1,48,37,000/- (Rupees One Crore Forty Eight Lakhs Thirty Seven

Thousand) for the work executed by the petitioner for “*construction of road from Khenewa to Nampe (Stage-I)*” under Package No. AR/03/01/031 **within a period of 2(two) months** from the date of receipt of a certified copy of this order, which shall be furnished by the petitioner.

With the above direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant