

GAHC040004192023



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

Case No. :WP(C)/342/2023

M/s M. D. Earthmovers and Anr.

Age: 0

Occupation :

Address:Represented by its sole proprietor Smt. Devi Miji

Abotani Colony

Itanagar

District Papumpare

Arunachal Pradesh 791111

2: Mai Sonam

Age: 48

Occupation :

Address:Wife of Shri Karjoy Sonam

Attorney of M/s MD Earthmovers

Resident of Type I

Colony

Seppa

PO/PS Seppa

District East Kameng

Arunachal Pradesh.

VERSUS

THE STATE OF AP and 2 Ors.

Age: 0

Occupation :

Address:Represented by the Secretary

Rural Work Department cum The Chief Executive Officer

Arunachal Pradesh Rural Road Development Agency

Govt. of Arunachal Pradesh

Itanagar.

2:the Chief Engineer

Age: 0

Occupation :

Address: Rural Work Department cum The Empowered Officer
Arunachal Pradesh Rural Road Development Agency
Govt. of Arunachal Pradesh
Itanagar.

3: the Executive Engineer/DPIU II

Age: 0

Occupation :

Address: Rural Work Department (RWD)

Seppa

East Kameng District

Arunachal Pradesh.

Advocate for : Pritam Taffo

Advocate for : Gimi Tarak appearing for THE STATE OF AP and 2 Ors.: Advocate ,

, appearing for 2,

3, respectively.

**BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

03.10.2023

Heard Mr. P. Taffo, learned counsel for the petitioners. Also heard Mr. G. Tarak, learned Standing Counsel, Rural Works Department representing all the respondents.

2. By filing this writ petition the petitioners have prayed for issuing a direction to the respondent authorities to release the pending bills amounting to Rs.3,20,77,095/- (Rupees Three Crore Twenty Lakhs Seventy Seven Thousand and Ninety-Five) for the work executed by the petitioners for construction of Road from *3.8 km point of Pakke-Ladda Road to Rawa*, under package No. AR 03/01/049.

3. The case of the petitioners, in a nutshell, is that the Government of Arunachal Pradesh through the office of the Executive Engineer, Rural Works Division, Seppa, published an e-procurement Notice, dated 15.02.2017 inviting item rate bids, in e-tendering system, from approved and eligible contractors, Joint Venture (JV) firms and other Public Sector Enterprises for construction of Road from *3.8 km point of Pakke-Ladda Road to Rawa*, under package No. AR 03/01/049 with an estimated cost of Rs. 15,23,21, 681/- (Rupees Fifteen Crore Twenty Three Lakhs Twenty One Thousand Six Hundred Eighty One) only. Subsequent thereto, the Petitioner Firm submitted their online tender along with all the necessary Documents and got qualified in the technical bid and financial bid. Thereafter, the respondent No. 5 vide letter of acceptance No. SRWD/PMGSY/PH-XI/17-18, dated 03.04.2017 accepted the bid of the Petitioner Firm and an Agreement No. RWD/PMGSY/Ph-XI/Agmt-1-2/2017-18, dated 07.04.2017, was executed between the parties for the aforesaid execution of work estimating to an amount of Rs. 15,23,22,000 (Rupees Fifteen Crore Twenty Three Lakhs Twenty Two Thousand). Accordingly, after arranging all the required goods/materials, staff and labourers, the Petitioner Firm started execution of the work. Upon completion of the work, the respondent Department prepared a bill to the tune of Rs.3,20,77,095/- (Rupees Three Crore Twenty Lakhs Seventy Seven Thousand and Ninety-Five). But, the respondent authorities did not release the admitted pending bills of the Petitioner Firm by citing the reason that there was public complaint regarding irregularity in the execution of the PMGSY road under Bameng WRD, Division among which the road project of the petitioner firm was also included and the matter was handed over to the Special Investigation Cell (SIC). On 23.01.2019, the SIC/Vigilance submitted enquiry report against procedural irregularities in 12(twelve) PMGSY

road in East Kameng district to the Commissioner (Vigilance) Govt. of Arunachal Pradesh, Itanagar observing that there were procedural lapses committed by the officer in connivance with each other and the same was intimated to the Ministry. Pursuant to the report submitted by the SIC as well as field inspection report, the Deputy Secretary (RC) Govt. of India, Ministry of Rural Development, Department of Rural Development Rural Connectivity (RC) Division, Krishi Bhavan, New Delhi, vide letter, dated 28.08.2019 communicated to the Secretary, RWD, Govt. of Arunachal Pradesh and directed not to release any payment against 12(twelve) road projects in question among which the Petitioner Firm's project was also included. As the complaint against the 12 projects were closed by the SIC vide letter, dated 21.02.2023 sent by the Under Secretary (Vigilance), Govt. of Arunachal Pradesh, Itanagar to the Superintendent of Police, SIC(Vigilance), Itanagar, the Petitioner Firm was under the impression that the pending bills would be cleared by the respondent authorities. The Petitioner Firm also submitted a representation, dated 03.05.2023 before the respondent authorities for payment of the outstanding bills. However, as the outstanding bill amount due to the petitioners has not been cleared by the department concerned till date, the petitioners having no other option have filed the instant writ petition seeking for appropriate relief.

4. Mr. P. Taffo, learned counsel for the petitioners, submits that the respondent authorities are neither disputing their liabilities nor have they paid the amount due to the petitioners till date even after completion of the work without any rational justification. Mr. Taffo also submits that the Petitioner Firm had availed loan from relatives and other financial institutions on agreeable interest for executing the said work and the interest amount is increasing with time and that because of non-payment of the bill amount due to the Petitioner

Firm they are unable to pay salaries to the labourers, which has affected their family lives.

5. Mr. G. Tarak, learned Standing Counsel, Rural Works Department, has conceded with the submission made by the learned counsel for the petitioners and has not disputed the entitlement of the petitioners to receive the amount of Rs.3,20,77,095/- (Rupees Three Crore Twenty Lakhs Seventy Seven Thousand and Ninety-Five) for the work executed by the petitioners for construction of Road from *3.8 km point of Pakke-Ladda Road to Rawa*, under package No. AR 03/01/049.

6. 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 petitioners is not opposed by the learned counsel for the respondents, this Court is of the opinion that the Petitioner Firm is entitled to receive the undisputed amount of Rs.3,20,77,095/- (Rupees Three Crore Twenty Lakhs Seventy Seven Thousand and Ninety-Five) for the work executed by the petitioners for construction of Road from *3.8 km point of Pakke-Ladda Road to Rawa*, under package No. AR 03/01/049.

7. Accordingly, the respondent authorities are directed to release the payment of Rs.3,20,77,095/- (Rupees Three Crore Twenty Lakhs Seventy Seven Thousand and Ninety-Five) for the work executed by the petitioners for construction of Road from *3.8 km point of Pakke-Ladda Road to Rawa*, under package No. AR 03/01/049 **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 petitioners.

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

JUDGE

Comparing Assistant