

GAHC040011902023



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

Case No. : WP(C)/431/2023

M/s HILLS ENGINEERING
a Proprietorship Firm represented by Smti. Meyang Rieng, Power of Attorney Holder,
Seppa, East Kameng District, Arunachal Pradesh.
Phone No. 8131871663

VERSUS

THE UNION OF INDIA and 3 Ors.
Represented by Secretary, Rural Development, Govt. of India, Krishi Bhawan, New
Delhi 1 2:THE STATE OF AP
Age: 0
Occupation :

3:the Chief Engineer cum Empowered Officer
Age: 0
Occupation :

4:Executive Engineer cum PIU
Age: 0
Occupation

Advocate for the Petitioner : Tony Pertin

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR

ORDER

05.10.2023

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.4,26,90,078/- (Rupees Four Crore Twenty-Six Lakhs Nine Thousand and Seventy- Eight) only for the work executed by the petitioner for *construction of road from Lengririang to Effa [Stage-I]* under package no. AR/03/01/007 as well as to direct the respondent authorities to pay 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.

3. The case of the petitioner, in a nutshell, is that on 08.07.2013, the Executive Engineer, RWD, Seppa, East Kameng District, Arunachal Pradesh, on behalf of the Governor of Arunachal Pradesh, issued a Notice Inviting e- Tender (NIT) No. SRWD/PMGSY/Tender-1/2013-14 for *construction of road from Lengririang to Effa [Stage-I]* under package no. AR/03/01/007. The petitioner also participated in the tender process and the tender of petitioner was duly accepted and the competent authority directed to proceed with the work vide agreement No. SRWD/PMGSY/Ph-X/AGREEMENT-07/11-12, dated 02.04. 2013 at the tendered cost of Rs.11,72,73,700/- (Rupees Eleven Crores Seventy-Two Lakhs Seventy-Three Thousand Seven Hundred) only.

4. In terms of the notice to proceed with the works, the petitioner started

executing the work and the site engineer measured and prepared the bill. As per RTI information No. RWD/EK/PMGSY[PIU-I] RTI-28/2018-19, dated 14.08.2023 enclosing the payment details of road from Lengririang to Effa, Stage-I, at present, the balance pending bill amount was Rs. 4,26,90,078.00 [Rupees Four Crores Twenty- Six Lakhs Ninety Thousand Seventy-Eight] only.

5. Vide letter No. SRWD-10/PMGSY/1/2019, dated 01.11.2019, the Secretary, Rural Works Department, Government of Arunachal Pradesh, issued an advisory addressed to the Chief Engineer -cum- Empowered Officer [PMGSY] not to release any payment against 12 controversial roads of East Kameng District, Arunachal Pradesh, till further directions from the Government. In the said list of 12 roads, the C/o Road from Lengreriang to Effa [Stage-I] was also included at Sl. No. 8. The said stop-payment letter was issued in terms of direction by the Ministry of Rural Development, Govt. of India vide Memo No. P-17023/4/2017-RC [FMS-354735] dated 26.08.2019. On the basis of the complaint, various enquiries etc. took place and the Special Investigation Cell [SIC] of the Arunachal Pradesh Police took up the case being SIC [VIG] PS. ENQ. No. 37/2017 against several road projects in the district of East Kameng including the work with which, the petitioner is concerned. Because of registration of the case the payment of bills of the petitioner was not made.

6. However, after preliminary enquiry no any anomalies were found to have been committed by the petitioner while executing the work and 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 Govt. approval of the request for the closure of the aforesaid case regarding all

the 12 [twelve] PMGSY Schemes including that of the road which is of concern to the petitioner. Moreover, the Department of Rural Works, Government of Arunachal Pradesh vide letter No. SRWD-04 /12 Road Bameng/VIG/2023, dated 09.05.2023 furnished the vigilance report to the Director [RC] Ministry of Rural Development, Govt of India, Krishi Bhawan, New Delhi.

7. Since all the allegations against the petitioner were found to be not true and vigilance report had gone in favour of the petitioner, the petitioner was under the impression that the pending bills would be cleared by the respondent authorities. However, as the respondent authorities have not cleared the bills of the petitioner till date, the petitioner has approached this Court seeking for appropriate relief.

8. 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 bills of the petitioner 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.

9. 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.3,14,91,178/- (Rupees Three Crore Fourteen Lakhs Ninety-One Thousand One Hundred Seventy-Eight).

10. 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.3,14,91,178/-(Rupees Three Crore Fourteen Lakhs Ninety-One Thousand One Hundred Seventy-Eight) for the work executed by the petitioner for *construction of road from Lengririang to Effa [Stage-I]* under package no. AR/03/01/007.

11. Accordingly, the respondent authorities are directed to release the payment of Rs.3,14,91,178/-(Rupees Three Crore Fourteen Lakhs Ninety-One Thousand One Hundred Seventy-Eight) for the work executed by the petitioner for *construction of road from Lengririang to Effa [Stage-I]* under package no. AR/03/01/007 **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