

GAHC040004192023



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

Case No. : WP(C)/438/2023

M/s Balaji Enterprises and Anr.

Age: 0

Occupation :

Address: represented by its sole proprietor Shri Yukar Taw

S/o Lt. Yukar Tado

resident of Zingang Colony

Papu Nalla

Naharlagun

Papum Pare District

Arunachal Pradesh-791110

2: Makhya Natung

Age: 48

Occupation :

Address: S/o Lt. Taje Natung

attorney holder of M/s Balaji Enterprises

resident of Village- Lumdung

P.O/P.S- Seppa

East Kameng District

Arunachal Pradesh.

VERSUS

The State of AP and 2 Others

Age: 0

Occupation :

Address: represented by the Secretary

Rural Work Department cum The Chief Executive Officer

Arunachal Pradesh Rural Road Development Agency

Government of Arunachal Pradesh

Itanagar.

2: The Chief Engineer Rural Work Department cum The Empowered Officer

Age: 0

Occupation :

Address: Arunachal Pradesh Rural Road Development Agency

Government 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 Others: 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 undisputed pending bills amounting to Rs.3,04,54,057.00/- (Rupees Three Crore Four Lakh Fifty-Four Thousand Fifty-Seven) for the work executed by the petitioners for *construction of Road from 20 KM Point of Seppa-Sagalee Road to Nere (Stage-II), Package No. AR 03/02/020*.

3. The case of the petitioners, in brief, is that the Government of Arunachal

Pradesh, through the Office of the Executive Engineer, Rural Works Division, Seppa, vide an E-procurement Notice, dated 08.07.2013 invited item rate bids, in e-tendering system, from approved and eligible contractors, Joint Venture(JV) firms registered with CPWD/PWD/BRO/NBCC/NEEPCO/NHPC and other Public Sector Enterprises for construction of Road from 20 km point of Seppa-Sagaleerod to Nere, under Package No. AR 03/02/020 with an estimated cost of Rs.1305.92 Lakhs only. Subsequent thereto, the petitioner firm submitted its tender online along with all the necessary documents. After qualifying in the technical evaluation and financial bid the aforesaid work was secured by the petitioners by bidding Rs.12,40,62,400.00/- (Rupees Twelve Crore Forty Lakh Sixty Two Thousand Four Hundred) only below the quoted amount of NIT. The respondent No.3 accepted the bid of the petitioner firm and accordingly an Agreement No. SRWD /PMGSY/Ph-X/Agreement-3/2013-14, dated 16.09.2013 was executed between the parties for the aforesaid work.

4. Pursuant to the aforesaid agreement, the petitioner firm having arranged all the required goods/materials, staff and labourers etc. started the execution of the work and during the execution of the work, the progress of work was intimated to the concerned authorities for inspection of the same. After completion of the work, the petitioner firm submitted bills before the respondent authorities which were duly acknowledged by the respondent authorities. The Field Officers inspected the works completed and scrutinized the bills submitted by the petitioners and submitted a bill amounting to the tune of Rs.3,04,54,057.00 (Rupees Three Crore Four Lakh Fifty-Four Thousand Fifty-Seven) only before the respondent authorities for release of the amount. The bills were prepared and approved by the respondent No. 3 and vide letter, dated 25.07.2023, forwarded it to the respondent Nos.1 and 2 requesting to release

the amount for further payment to the petitioner firm. 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 10.04.2023 before the Executive Engineer, RWD, Seppa, for payment of the bills. But, as the respondent authorities have not cleared the pending bills of the petitioner firm, they have approached this Court seeking for appropriate relief.

5. Mr. P. Taffo, learned counsel for the petitioners, submits that since the SIC

has closed the investigation of SIC(VIG) P.S. ENQ. NO.37/2017, dated 24.08.2022 and the vigilance report had gone in favour of the petitioners, the petitioners are entitled to get payment towards their pending bills. Mr. Taffo also submits that the petitioners' case is squarely covered by the decisions of this Court passed in WP(C) No.194/2022 and WP(C) No.263/2023.

6. Mr. G. Tarak, learned Standing Counsel, Rural Works Department, has conceded with the submission made by the learned counsel for the petitioner and has not disputed the entitlement of the petitioner to receive the amount of Rs.3,04,54,057.00/- (Rupees Three Crore Four Lakh Fifty-Four Thousand Fifty-Seven).

7. 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 petitioners are entitled to receive the undisputed amount of Rs.3,04,54,057.00/- (Rupees Three Crore Four Lakhs Fifty-Four Thousand Fifty-Seven) for the work executed by the petitioners for *construction of Road from 20 KM Point of Seppa-Sagalee Road to Nere (Stage-II), Package No. AR 03/02/020*.

8. Accordingly, the respondent authorities are directed to release the payment of Rs.3,04,54,057.00/- (Rupees Three Crore Four Lakh Fifty-Four Thousand Fifty-Seven) for the work executed by the petitioners for *construction of Road from 20 KM Point of Seppa-Sagalee Road to Nere (Stage-II), Package No. AR 03/02/020* **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