

GAHC010077362023



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

Case No. : WP(C)/2033/2023

SARAT DEKA

S/O- BHARAT DEKA, R/O- HOUSE NO. 29, SANKARDEV PATH, P.O. AND P.S.
FATASHIL AMBARI, FATASHIL AMBARI, GUWAHATI, DIST.- KAMRUP (M),
ASSAM

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION AND 4 ORS.
REP. HEREIN BY ITS COMMISSIONER, BHANGAGARH, GUWAHATI,
ASSAM- 781005

2:THE COMMISSIONER
THE GUWAHATI MUNICIPAL CORPORATION
BHANGAGARH
GUWAHATI
ASSAM- 781005

3:THE JOINT COMMISSIONER
THE GUWAHATI MUNICIPAL CORPORATION
BHANGAGARH
GUWAHATI
ASSAM- 781005

4:THE CHIEF ENGINEER
THE GUWAHATI MUNICIPAL CORPORATION
BHANGAGARH
GUWAHATI
ASSAM- 781005

5:THE EXECUTIVE ENGINEER
THE GUWAHATI MUNICIPAL CORPORATION
JANXALA BRANCH

BASISTHA
GUWAHATI
ASSA

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, GMC

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 04/10/2023

Heard Mr. S. Borthakur, learned counsel for the writ petitioner. Also heard Mr. S. Bora, learned Standing Counsel, GMC, appearing for the respondents.

The facts of the case, in a nutshell, are as follows.

The writ petitioner claims to be a Government Class-I(A) contractor registered under the APWD (R&B) and is also a empanelled contractor under the GMC authorities. In terms of the work order dated 26/09/2022 (Annexure-B), the petitioner had let out 3 (three) nos. of Dumpers of 8.5 capacity @ Rs. 11,400/- per day for the period mentioned in the work order. After execution of the work, the petitioner had submitted bills as hiring charges in respect of the Dumpers. The bills were raised as per the conditions laid down in the work order. However, the bills of the petitioner have not been cleared till today. Aggrieved thereby, the instant writ petition has been filed.

During the pendency of this writ petition, the respondent nos. 1 to 5 had filed counter affidavit *inter alia* contending that the Dumpers of higher capacity were available in the market on hire @ Rs. 6000/- per day and, therefore, the rate claimed by the petitioner was exorbitant.

Mr. Bora submits that since public money is involved in payment of bills of the petitioner, the respondents have a duty to verify the claim and figure out as to whether the petitioner is charging exorbitant rate.

Mr. Borthakur, on the other hand, submits that the respondents have issued the work order as per mutually agreed terms, thus clearly laying down the terms and conditions including the rates payable for each of the Dumper. Therefore, after the work has been executed executed, they cannot now turn around and take a different stand in the matter so as to prejudice the interest of the

petitioner.

After going through the materials available on record, I find that a work order was issued to the petitioner clearly laying down the capacity of the Dumpers, the period of use and the rate applicable in case of each of the Dumper. On receipt of the work order, the petitioner had executed the order by providing the Dumpers and thereafter, submitted bills. At this stage, the respondents have taken a stand that the rate is exorbitant.

If the respondents were not satisfied with the rate quoted by the petitioner, then the work order ought not have been issued. However, once the respondents have agreed to pay a particular rate to the petitioner for using his Dumpers and the same is reflected in the work order in specific terms, such condition will be equally binding upon the contractor as well as the respondents. Therefore, the respondents cannot now resile from their stand merely stating that Dumpers were available in the market at a cheaper rates.

In view of the above, I am unable to accept the stand of the respondents. As such, this writ petition is being disposed of by providing that the bills of the petitioner be processed strictly in accordance with the terms and condition of the work order dated 26/09/2022 and the amount be released, as expeditiously as possible, preferably within 45 (forty five) days from the date of receipt of a certified copy of this order.

The writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant