

GAHC010083432021



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

Case No. : WP(C)/3488/2021

ALIMUDDIN TAPADAR
S/O. KASIMUDDIN HAJI, R/O. HILCHAR, P.O. SRI GOURI, DIST.
KARIMGANJ, ASSAM, PIN-788802.

VERSUS

THE GENERAL MANAGER (CONSTRUCTION)
N.F. RAILWAY, MALIGAON, GUWAHATI-781011.

2:THE CHIEF ENGINEER (CONSTRUCTION)

N.F. RAILWAY
MALIGAON
GUWAHATI-781011.

3:THE DY. CHIEF ENGINEER (CONSTRUCTION-1)

N.F. RAILWAY
N.F. RAILWAY
SILCHAR
TARAPUR
SILCHAR-788003
DIST. CACHAR
ASSAM.

4:THE CHIEF LABOUR COMMISSIONER (C)

MINISTRY OF LABOUR AND EMPLOYMENT
GOVT. OF INDIA
NEW DELHI-110001.

5:LABOUR COMMISSIONER

MINISTRY OF LABOUR AND EMPLOYMENT GOVT. OF INDIA
SILCHAR-788003
DIST. CACHAR
ASSAM.

6:AMBARISH ROY
ARJYAPATTY
SILCHAR-781001
DIST. CACHAR
ASSAM

Advocate for the Petitioner : MR. JUNM LASKAR

Advocate for the Respondent : SC, RAILWAY

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 19-07-2023

There is no representation on behalf of the petitioner today on call.

2. The petitioner had instituted the writ petition challenging the outcome of a tender process initiated by a Tender Notice bearing Tender no. DYCE-CON-BS-2021-01 dated 02.02.2021 for the following contract work :- 'Execution of Civil Engineering works & Maintenance [Housekeeping] of office/site camp & Officers rest house at Silchar, Bairabi & Kawnpui including gardening, supplying & planting seasonal flower plants & other plants, operating and maintenance of Railway DG set and lifts in office/camp office and other premises & other ancillary works under Dy.CE/CON-I & II/BHRB at SCL *for a period of 2 [two] years* in connection with construction of Bhairabi-Sairang New BG line project'. The last date of submission of bid was 03.03.2021. A total of 16 nos. of bidders participated in the tender process. After evaluation of the financial bids of the

participant bidders, a Letter of Acceptance [LoA] was issued in favour of the original respondent no. 8, later re-numbered as respondent no. 6, pursuant to the order dated 02.08.2021 of this Court and as per the office note dated 22.06.2023.

3. The case of the petitioner was that by the LoA bearing no. DY.CE.CON-1/BHRS and SCL-ENGINEERING/DYCE-CON-BS-2021-01/0150 6470033871 dated 28.03.2021, the respondent no. 6 was directed to start the contract work. On receipt of the same, the respondent no. 6 vide his letter dated 30.03.2021 informed the respondent Railway authorities that he would start the contract work from 01.04.2021. Challenging the same, the petitioner had preferred the instant writ petition.

4. By order dated 02.08.2021, notices were issued to the respondents. The name of the original respondent no. 1 and the original respondent no. 2 were struck off as they were found to be not necessary parties and the other respondents were re-numbered.

5. Mr. B. Sharma, learned Standing Counsel, Railways had accepted notice on behalf of the original respondent nos. 3 – 5 who have been so re-numbered as respondent nos. 1 – 3 later on. The petitioner was directed to take steps for service of notice upon the original respondent nos. 6, 7 & 8 who have been so re-numbered as respondent nos. 4, 5 & 6 later on. Despite the order to take steps for service of notice upon the respondents by registered post with A/D, the petitioner did not take any steps for service of notice upon the respondent nos. 4, 5 & 6 till date.

6. As the contract work allotted to the respondent no. 6 was for a period of 2

years, which period has expired during the pendency of the writ petition, it appears that the petitioner is not interested to pursue the writ petition as he did not take steps for service of notice upon the respondents in terms of the order dated 02.08.2021 for a period of about 23 months. In such view of the matter, it appears to the Court that the petitioner is not interested to pursue the writ petition as the subject-matter of the writ petition might have become infructuous with the efflux of time. Accordingly, the writ petition is dismissed for non-prosecution. The petitioner is, however, at liberty to prefer appropriate pleadings for restoration of the writ petition, if there is any surviving cause of action.

JUDGE

Comparing Assistant