

GAHC010179122019



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

Case No. : WP(C)/5915/2019

M/S. LION HEART CONSTRUCTION AND PROJECT (SUPPLY/ROAD
CONSTRUCTION/BUILDING AND FINANCE ETC.)
REP. BY ITS PROPRIETOR, IMRAN MAZUMDER, S/O A.M.MAZUMDER, R/O
HAILAKANDI TOWN, P.O. AND DIST. HAILAKANDI, PIN-788155

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, PANCHYAT AND
RURAL DEVELOPMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR OF FINANCE (ECONOMIC AFFAIRS) DEPTT.
BLOCK NO. F
DISPUR
SFC CELL
GUWAHATI-6
ASSAM

3:THE COMMISSIONER
PANCHYAT AND RURAL DEVELOPMENT
PANJABARI
ASSAM
GUWAHATI
ASSAM
PIN-781037

4:THE CHIEF EXECUTIVE OFFICER
ZILLA PARISHAD
HAILAKANDI
ASSAM
PIN 788151

5:THE DEPUTY COMMISSIONER
HAILAKANDI

6:THE BLOCK DEVELOPMENT OFFICER
HAILAKANDI DEVELOPMENT BLOCK
HAILAKANDI
PIN-788151

7:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
GUWAHATI-29

8:THE EXECUTIVE ENGINEER
PWD (BUILDING)
SILCHAR DIVISION
SILCHAR
PIN-788155

9:THE ASSISTANT ENGINEER
PWD
HAILAKANDI RURAL ROAD DIVISION
HAILAKANDI
PIN-788151

10:THE EXECUTIVE ENGINEER
DRDA
HAILAKANDI
PIN-78815

For the Petitioner (s) : Ms. S. B. Choudhury, Advocate.

For the Respondent (s): Mr. N.K. Debnath, SC, P& RD Deptt.

Mr. B. Chakraborty, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

20.11.2023

The instant writ petition has been filed by the Petitioner being aggrieved by the non-consideration of the Petitioner's representation for enhancement of the rates.

2. It reveals from the records that the Petitioner was allotted a contract for (i) construction of BDO/EO Quarter for AP at Hailakandi Development Block, (ii) construction of Grade-III Quarter for AP at Hailakandi Development Block and (iii) construction of Grade IV Quarter for AP at Hailakandi Development Block. The Petitioner was issued a Letter of Acceptance on 22.08.2014. Thereupon the notice to proceed with the work was issued on 4th of September, 2014. However, the Petitioner could not start with the construction of the BDO/EO Quarter for AP at Hailakandi Development Block as there was no land clearance. The Petitioner duly approached the Respondent Authorities including the Deputy Commissioner, Hailakandi for land clearance. However, as the land clearance was not granted and there was also a request for enhancement of rate which was also not considered, the Petitioner approached this Court by filing a Writ Petition which was registered and numbered as W.P.(C) No.6130/2017.

3. Vide an order dated 22.02.2019, this Court taking into account that there was no opposition to the first prayer for handing over the site to the Petitioner so that the Petitioner would be in a position to complete the work, appropriate directions were issued for vacating the existing quarters within 4 weeks from the date of the said order after giving due notice. However, as regards the second prayer for enhancement of the rate, it was the opinion of this Court that such a relief cannot be considered under Article 226 of the Constitution and the petitioner was given the liberty to approach the Respondent Authorities seeking enhancement of the rate on account of price escalation. The Petitioner on the basis of the said liberty so granted, approached the Respondent Authorities and in the minutes of the meeting held on 26.03.2019, it was observed that the Petitioner would be entitled to a total amount of Rs.7,60,913/- in respect to the BDO/EO Quarter(Assam Type Building) having a plinth area of 55.20 sq.

metre and Rs.5,12,204/- in respect to AP/GP Secretary Grade-III Quarter (Assam Type Building) plinth area that is equal to 37.64 sq. metres. The Petitioner being aggrieved by the price escalation so granted have approached this Court by filing the instant writ petition.

4. This Court having duly heard the learned counsel for the parties is of the opinion that the said aspect as regards the price escalation comes absolutely within the realm of the contract between the Petitioner as well as the Respondent Authorities and this Court in exercise of the jurisdiction under Article 226 of the Constitution would not be in a position to adjudicate the same. Under such circumstances, this Court is not inclined to grant the reliefs as have been sought for in the instant writ petition for which the instant writ petition stands dismissed.

5. Be that as it may, the dismissal of the instant writ petition shall not preclude and prejudice the Petitioner to approach the appropriate forum, if so advised and the period during which the instant writ petition have been pending i.e. from 30.07.2019 till today shall be excluded while computing the period of limitation.

JUDGE

Comparing Assistant