

GAHC010197222021



Judgment reserved on : 6th June, 2023
Judgment delivered on : 19th October, 2023

In the Gauhati High Court

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

W.P.(C) NO. 6280 OF 2021

M/S Badri Rai & Co., a partnership concern and having its registered office at Station Road, P.O.Duliajan, District-Dibrugarh, Assam, Pin-786602.

.....Petitioner

-Versus-

1. Union of India, represented by Secretary, Ministry of Education, Government of India, Shastri Bhawan, New Delhi-110001.
2. Indian Institute of Technology, Guwahati, North Guwahati, Guwahati-781039, represented by its Director, Indian Institute of Technology, Guwahati.
3. Dean (IPM), Indian Institute of Technology, Guwahati, North Guwahati, Guwahati-781039.

.....Respondents

– B E F O R E –
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

Advocate for the petitioner : Mr. G. N. Sahewalla, Senior Advocate assisted by
Mr. H. K. Sarma.

Advocate for the respondents : Mr. C. Choudhury, Advocate assisted by Ms. Boro.

JUDGMENT AND ORDER (CAV)

(Soumitra Saikia, J)

Heard Mr. G. N. Sahewalla, learned senior counsel assisted by Mr. H. K. Sarma, learned counsel appearing for the petitioner. Also heard Mr. C. Choudhury, learned senior counsel assisted by Ms. Boro, learned counsel for the respondents.

2. This writ petition is filed by the petitioner concern which is a partnership firm having its registered officer at Duliajan in the district of Dibrugarh, Assam, seeking a writ of mandamus from this Court to the respondents for release of the security deposits in relation to the work of construction of classroom complex and extension of Academic complex phase IV at Indian Institute of Technology, Guwahati campus.

3. The petitioner firm undertakes and executes civil and mechanical contractual works in the Government and semi Government departments

for the last more than 4 decades. The petitioner firm claims to have successfully completed civil/mechanical contractual works in the Indian Institute of Technology, Guwahati.

4. In the year 2009 in response to an NIT floated by the Indian Institute of Technology, Guwahati for construction of 1000 seater boys' Hostel No.9 at Indian Institute of Technology, Guwahati campus bearing No. IITG/ENGG/09/NIT/10 dated 06.03.2009, the petitioner submitted its bid and along with all requisite documents. The petitioner was short listed as the selected bidders and the contract for execution of the tendered was issued to the petitioner. The petitioner firm was given the Letter of Intent (LOI) on 12.08.2009 and subsequently, the contract agreement was executed by and between the petitioner and the Indian Institute of Technology, Guwahati vide agreement dated 26.08.2009. In so far as the '*rates for wages for unskilled labour*' were concerned, the petitioner had quoted the rate of Rs.88/- as per the rates fixed by the Government of Assam and which was also accepted by the respondent No.2 Indian Institute of Technology, Guwahati. The base figure for calculation of the rates for unskilled labour as per the formula prescribed in the contract agreement was the rate published by the Government of Assam.

Subsequently, it was decided by the Indian Institute of Technology, Guwahati that the rates published by the Government of Assam was low and therefore, the Central Government rates should be used as a base rate. The work was duly executed by the petitioner and the payments were released as per the parameters prescribed under the contract agreement including rates for unskilled labours, which was calculated on the basis of the base rate as prescribed under the Government of Assam, Labour Department. After completion of the contract the project upon being completion was also handed over to the Indian Institute of Technology, Guwahati. During an audit carried out in the Indian Institute of Technology, Guwahati, an audit objection was raised by the Director General of Audit, Central, Kolkatta that the base rate for calculation of Labour escalation ought to have been 151.13 instead of Rs.99, as was done by the Indian Institute of Technology, Guwahati and therefore, an excess payment of Rs.8,14,09,476 /- was made to the petitioner firm and which ought to be refunded back by the petitioner firm. On the basis of the said audit objection, communications were exchanged between the petitioner and the Indian Institute of Technology, Guwahati, whereby the Indian Institute of Technology, Guwahati demanded refund of the amount of Rs.8,14,09,476/- as it was stated that the said amount was wrongly

made in excess over and above the amount entitled to be released to the petitioner. Subsequently, the Director General of Audit, Central, Kolkata dropped the audit objection.

5. Thereafter, communications were exchanged between the Indian Institute of Technology, Guwahati and Director General of Audit, Central, Kolkata seeking clarifications in respect of their the communications issued by the Deputy General Audit in respect of the term used by the Auditor '*dropping of para*'. The Senior Audit Officer by its letter dated 13.09.2019 had clarified that the term '*dropping of para*' means withdrawal of audit observation in that regard.

6. Thereafter, the Indian Institute of Technology, Guwahati by letter dated 07.01.2016 directed the petitioner to deposit /remit back the amount of Rs.8,14,09,476/- made towards labour escalation bill as payments made in excess in view of the audit observation made by the Auditor General, Kolkata. This letter was impugned by the petitioner by way of WP(C)/368/2016. During the course of the hearing of WP(C)/368/2016, the standing counsel appearing for the Auditor General on instructions submitted before the Court that as per the instructions received by him vide letter dated 28.11.2019 has referred to a letter

dated 13.09.2019 issued by the Senior Audit Officer (O.A-A.B) and addressed to the interim Registrar, Indian Institute of Technology, Guwahati.

7. By the said letter dated 13.09.2019 the Senior Audit Officer (O.A-AB) informed the interim Registrar that the audit objections were raised because of non submission of adequate documents and which were subsequently dropped in the next year. It was clarified that the '*dropping of para*' means withdrawal of audit observation in that regard. The said letter was also brought on record by way of an Additional affidavit filed on 14.11.2019 on behalf of the respondent No.4 and 5 therein, namely, Indian Institute of Technology, Guwahati. On the basis of such instructions furnished by the department of Audit clarifying that the audit objections/observations was withdrawn, the writ petition was disposed of directing the Indian Institute of Technology, Guwahati to pass appropriate orders on the basis of the clarifications /instructions received from the Director General of Audit, Central, Kolkata (are to therein) within a period of 3 (three) weeks from the date of the order and served copies on the petitioner. It was held by the Court that the said letter dated 07.01.2016 which was impugned in the said writ petition, directing the petitioner to

remit or deposit the amount stated to have been paid in excess, had lost its force, in view of the withdrawal of the audit objections. Since the basis of the letter directing the petitioner to remit or deposit the amount was issued by the Indian Institute of Technology, Guwahati on the basis of the audit objections/observations made by the Director General of Audit, Central, Kolkata, and which as per subsequent clarification was '*dropped or withdrawn*', the writ petition was disposed of.

8. Thereafter the Indian Institute of Technology, Guwahati filed a review of the said order dated 05.12.2019 passed in WP(C) 368/2016 by the Indian Institute of Technology, Guwahati by Review Petition No. 110/2020. The said review ultimately came to be dismissed on the submissions made by the learned counsels appearing for the review petitioners/ Indian Institute of Technology, Guwahati that to withdraw the review petition and filed a fresh, if so advised. It was submitted that certain facts and documents were required to be brought on record and therefore, the review petition was sought to be withdrawn. Accordingly the review petition was dismissed on withdrawal with liberty.

9. During the pendency of the review petition, a communication dated 17.03.2021 was issued to the petitioner informing that since the review

petition being Review petition No.110/2020 has been preferred before the High Court against the order dated 05.12.2019 in WP(C) 368/2016, it was not possible for the institution to release the security deposit amount as requested by the petitioner. It is this letter, which is presently being impugned in the instant writ petition seeking writ of mandamus for directing the respondent Indian Institute of Technology, Guwahati to release the security deposit to the petitioner amounting to Rs.8,66,22,283/- pertaining to a contract agreement No. IITG/ENGG/12/AGMT/19 dated 01.11.2012. It is submitted by the learned counsel for the petitioner that this security deposit pertains to a separate contract for which the petitioner had submitted its bid in response to the offer made by the Indian Institute of Technology, Guwahati and being selected as the L 1 bidder, the said contract was issued to the petitioner and an agreement to that effect was entered by and between the the petitioner vide agreement No. IITG/ENGG/12/AGMT/19 dated 01.11.2012.

10. The learned counsel for the petitioner submits that the issue of excess payment pertain to an earlier contract which was duly executed and payments were released as per the terms of agreement of that

contract and therefore under the provisions of the law of contract there is no scope for the petitioner to reopen a concluded contract and attempt to alter the terms of the contract and the agreement as had been sought to be done. Learned counsel for the petitioner submits that the action of the respondent, Indian Institute of Technology, Guwahati in trying to set off the alleged excess payment made in respect of an earlier contract with the security deposit relating with the security deposit available with the Indian Institute of Technology, Guwahati in respect of another separate contract is totally opposed to the principles of Laws of contract as well as to the agreements entered by and between the petitioner and the Indian Institute of Technology, Guwahati binding each other as regards the performance of the contract.

11. Learned counsel for the petitioner submits that as per the clauses of the contract executed by and between the petitioner and the Indian Institute of Technology, Guwahati in respect of "Construction of 1000 seater boys' Hostel No.9 at Indian Institute of Technology, Guwahati campus" and which was entered vide agreement No.IITG/ENGG/09/AGMT/07 dated 26th August, 2009 the calculation for payment required to be made in respect of price escalation for labour is

to be made as per the formula prescribed under the contract.

12. It is submitted by the learned senior counsel for the Indian Institute of Technology, Guwahati that by communication dated 08.04.2010, the petitioner requested the Indian Institute of Technology, Guwahati to consider the price escalation of labour component as per the Minimum Wages notified by the Government of India Circular. Subsequently, the petitioner also obtained a Labour Licence from the Assistant Labour Commissioner, Central and therefore, the petitioner had already started making payment as per the Central Government rates. Reference to a letter dated 23.04.2010 was made by the learned senior counsel for Indian Institute of Technology, Guwahati who submit that the petitioner have been paying at the Central Government rates although in the contract agreement the rates were to be calculated as per the Assam Government rates.

13. In the said contract agreement the minimum daily wage prescribed are the rates notified by the Government of Assam. Accordingly, the rates which were prevalent at the relevant point in time which is Rs.99/- as prescribed by the Government of Assam, Labour Department was made the basis for calculation of price escalation in labour and necessary bills

were submitted by the petitioner which were released by the respondent Indian Institute of Technology, Guwahati in due course. It is submitted by the learned senior counsel that until and unless these terms and conditions are altered mutually, the attempt by the Indian Institute of Technology, Guwahati to calculate price escalation in labour @ Rs.155 purportedly on the basis of rates notified by the Central Government, Labour Department, is contrary to the clauses of the contract agreement executed by and between the petitioner and the Indian Institute of Technology, Guwahati. The learned senior counsel submits that once the agreement is entered into the clauses of contract are binding between both parties and no change to any of the clauses can be made by any party unilaterally. It is further submitted that in view of the order dated 01.12.2022 passed in Review petition No.110/2020 dismissing the review petition on withdrawal, the respondents are duty bound in law to release the security deposit in respect of the contract agreement No. IITG/ENGG/12/AGMT/19 dated 01.11.2012 (page 20 of the writ petition) amounting to Rs.8,66,22,283/- and the writ petition be accordingly allowed.

14. Per contra Mr. C. Choudhury, learned senior counsel appearing for

Indian Institute of Technology, Guwahati opposes the contentions of the learned counsel for the petitioner. It is submitted by the learned senior counsel that while the base rate for price escalation in labour was initially agreed upon between the parties to be the rates notified by the Government of Assam and which is the part of the agreement dated 26.08.20009 in respect of the earlier contract, subsequently the Indian Institute of Technology, Guwahati by communication dated 03.08.2010 informed the petitioner that the rate for price escalation of labour shall be as per the minimum wages Act of the Ministry of Labour, Government of Assam. Thereafter, the Indian Institute of Technology, Guwahati vide letter dated 03.08.2010 informed the petitioner their intention to modify the clause for calculating the escalation of labour by modifying the Minimum Wages to be paid as per the Ministry of Labour, Government of India rate instead of the Ministry of Labour, Government of Assam rates as was in corporate earlier in the agreement.

15. The learned senior counsel for the petitioner also referred to a communication of the petitioner dated 20.11.2013 requesting for release of the security deposit of the works executed earlier with the undertaking that if recovery is at all necessary then the amounts can be recovered

from the bills of the ongoing works.

16. The learned counsel for the respondent submits that by communication dated 10.01.2023 the prayer for release of Rs.8,14,09,476/- which is withheld from the security deposit/running bills towards excess payment made as regards labour escalation charges in connection with the contract agreement dated 26.08.2009 was rejected. It was informed by the Indian Institute of Technology, Guwahati that aforesaid amount has been adjusted towards the excess amount paid to the petitioner due to wrong calculation of labour escalation.

17. Learned counsels have been heard. Pleadings on record have been carefully perused.

18. It is seen that as per the contract agreement executed by and between the parties dated 26.08.2009, the formula for price escalation as entered in the agreement for the Labour component was to be calculated as per the Minimum Wages Act of the Government of Assam.

19. The contract agreement No.IITG/ENGG/09/AGMT/07 dated 26th August, 2009 was executed by and between the Indian Institute of Technology, Guwahati and after the petitioner was allotted the work of "construction of 1000 seater boys' Hostel No.9 at Indian Institute of

Technology, Guwahati campus". The agreement was executed on 26th of August 2009. It is not disputed that the work was accordingly executed by the petitioner and the building was handed over to Indian Institute of Technology, Guwahati. The contractual works were executed in the month of July/August, 2012 and the IIT, Guwahati paid the price escalation value alongwith the contract value. The contract agreement contains the various Clauses, including general conditions of contract which are binding between the parties who had entered into the contract and executed the agreement, namely, the petitioner and Indian Institute of Technology, Guwahati.

20. Under the special conditions of contract under Clause 1.16, Price Escalation is prescribed. The formula on the basis of which price escalation under various heads is to be calculated is also specifically prescribed. Under the said provisions under clause 1.16 (d), price escalation for Labour is shown. The formula prescribed is extracted below :-

"d) Labour:

$$V_L = 0.85 W \times 0.25 \times \frac{LI - LI_0}{LI_0}$$

V_L = Variation in labour cost i.e. amount of increase or

decrease in Rupees to be paid or recovered.

W = Value of work done during period under consideration

Y = Component of labour expressed as percent of total value of the work

LI & LI_0 = Minimum daily wage in rupees for the minimum rated workers as per minimum wages act of by the Govt. of Assam as applicable for the period under consideration and that valid on the date of receipt of tender including extension respectively."

21. It is clear from the above formula that the minimum daily wage in rupees for minimum retailed workers is to be calculated on the basis of Minimum Wages Act of the Government of Assam as applicable for the period under consideration.

22. This condition being present as a part of the contract agreement executed by and between the parties is not in dispute. The respondent, Indian Institute of Technology, Guwahati submits that subsequently by communication dated 03.08.2010 issued by the Indian Institute of Technology, Guwahati, which is available at Annexure XII page 26 of the affidavit-in-reply filed by the writ petitioner shows that the Indian Institute of Technology, Guwahati by the said communication, altered the conditions of contract by seeking to adopt the rates prescribed by the Ministry of Labour, Government of India as the base unit for calculating

minimum wages.

23. This apparently was issued on the basis of a request made by the petitioner himself, which is available in the pleadings at page 147 Annexure 'C' vide communication dated 08.04.2010. Annexure 'C' to the additional affidavit filed on behalf of Indian Institute of Technology, Guwahati. However, pursuant to this no agreements was executed by the parties to that effect nor were the conditions in the contract agreement were mutually altered.

24. Under clause 19.4 of Section 4 of the conditions of contract, it is provided that all compensation or other sums of money payable by the petitioner to the owner under the terms of the contract may be deducted from or paid by sale of sufficient part of the security deposit or from any sums which may be due or may become due to the contractor by the owner on any account whatsoever and if the security deposit is reduced by such reason of any such deductions or sale, the contractor shall within 10 (ten) days make good in cash, bank drafts or Government securities.

25. Under Section 23.1, the contractor shall compensate for any delay that has occurred which shall be an amount equal to 1% or such smaller amount as the Engineer-in-charge of that work decides.

26. As per Clause 82 under Section 7, all taxes, duties and octrois, etc are required to be paid by the contractor.

27. Section 8 provides for labour laws and safety regulations. Under Clause 87, the contractor is to indemnify the owner against all actions, proceedings, claims, demands, costs, expenses arising out of or in connection with any damage to the property caused as prescribed under Clause 84. It is further provided that the owner shall not be liable for or in respect of any demand or compensation payable by law, in respect of, or in consequence of any accident or injury to any workman or any person in the employment of the contractor or a subcontractor. And all such damages and compensations are to be met by the contractor.

28. Clause 90 provides for Arbitration for all disputes and differences between the parties touching or concerning the works or execution or maintenance thereof of the contract. A perusal of the contract, including the general conditions and special conditions does not reflect that recovery of any amount due relating to the contract can be adjusted in respect of any other contract agreement that is being executed by the petitioner under the IIT, Guwahati.

29. In *Build India Construction System Vs Union of India* reported in

(2002) 5 SCC 433 the Apex Court held that in any contract one of the parties to the said contract may have the power to unilaterally vary the obligations and if such power can be spelled out from the terms of the contract and is held to be lawful, then a unilateral variation of obligation by one party shall be binding on the other party of the contract. In the facts of that case, the Apex Court held that the terms of the contract could not have been varied except by mutual agreement.

30. In the context in the facts of that case, the Apex court held that the arbitration clause was contained in the contract entered into between the parties. Its terms could not have been varied except by mutual agreement.

31. In *Suresh Kumar Wadhwa Vs State of Madhya Pradesh and Others* reported in (2017) 16 SCC 757 the Apex Court while examining the question or alteration of terms and conditions, held that a party to the contract has no right to unilaterally alter the terms and conditions of the contract, nor they have a right to add any additional terms or conditions to the contract unless both parties agree to add or alter any such terms and conditions of the contract. It is further held that if any party adds any additional terms and conditions in the contract without the consent of the

other contracting party then such addition is not binding on the other party. Similarly, a party which adds any such term or condition has no right to insist on the other party to comply with such additional terms and conditions, nor such party has a right to cancel the contract on the ground that the other party has failed to comply with such additional terms and conditions.

32. In the facts and circumstances of the present case, contract agreement entered into by and between the petitioner and the respondent, Indian Institute of Technology, Guwahati. The contract agreement is exhaustive containing various clauses which will bind the parties to the contract in respect of the execution of the works in relation to which the bids for execution of the works were invited for accepted and the contract works were awarded to the petitioner.

33. As discussed above under the "special conditions to the contract" at Clause No. 1.16, the formula for deciding the price escalation component for Labour is clearly specified. Although the petitioner had on its own, requested the IIT authority by its communication dated 08.04.2010, to consider the Central Government Circular for calculation of the labour escalation as per Government of India Circular for minimum wages and

which offer was accepted by the reply issued by the IIT Guwahati by its communication dated 03.08.2010.

34. By the said communication dated 03.08.2010 the IIT, Guwahati in response to the letter dated 23.04.2010 informed the petitioner that the Clause 1.16 (d) in so far as labour Escalation is concerned, stands modified to the extent that for calculation of Price Escalation on account of labour will be calculated on the basis of minimum daily wages in rupees for the minimum rated workers as per Minimum Wages Act of the Ministry of Labour, Government of India, as applicable for the period under consideration and that valid on the date of receipt of tender, including extension, respectively.

35. It is on the basis of this communication that the IIT, Guwahati submits that the calculation for price escalation has been altered. Although it is evident that the initial offer for alteration of the formula for calculating the price escalation for labour was suggested by the petitioner, and the same was duly accepted by the IIT, Guwahati vide its communication dated 03.08.2010, but no formal agreement with respect of this alteration was entered into by and between the petitioner and the IIT, Guwahati nor were the clauses of the contract agreement duly

altered to that effect showing the alteration of the formula for price escalation for labour.

36. As discussed above, this is a contract initiated by the Government of India entity like the IIT, Guwahati pursuant to an NIT. The contract agreement entered by and between the parties reflects several clauses and the steps to be undertaken for calculation of price escalation under the various heads. Under such circumstances, the claim of the respondent IIT, Guwahati that the price escalation clause for labour has been mutually altered will not be acceptable in the absence of any expressed agreement executed by and between the petitioner and the IIT, Guwahati pursuant to the communications exchanged between them. There is no explanation as to why subsequent agreements were not executed between the petitioner and the IIT, Guwahati in pursuant to the communications dated 08.04.2010 as well as the communication dated 23.04.2010 stated to have been issued by IIT, Guwahati in response to the communications issued by petitioner. Such absence of a valid agreement executed by and between the petitioner and the IIT, Guwahati altering the clauses for calculation of price escalation for labour as was specified in the earlier agreement dated 26.08.2009, executed by and between the petitioner and the IIT, Guwahati cannot be accepted to be a

case of alteration of contract by mutual agreement. More particularly when the works allotted to the petitioner were duly executed in the year 2012 and all payments including price escalation were released by IIT, Guwahati. In the context of this case and taking into account the nature of the works required to be executed, the exchange of communications between the petitioner and IIT, Guwahati reflecting that the petitioner had proposed for alter a component of the formula for calculation of price escalation for labour and a corresponding reply thereto by the IIT, Guwahati cannot be accepted to be mutual agreement between the parties in the absence of a validly executed agreement by and between the parties. The presumption sought to be projected by the respondent authorities if allowed, will have far reaching consequences on alteration of the terms of contracts by any party to the contract. Such course of action is not permissible under the provision of law. That apart the instant contract has long been executed and possession handed over and the amounts payable to the petitioner has also been released. Subsequently after due completion of the contract and release of the payments, the petitioners are now withholding the payments due in respect of the petitioner with regard to some other work within the IIT, Guwahati campus and had issued the impugned communication for adjustment of

the amounts given to the petitioner in respect of contract Agreement No.IITG/ ENGG/ 09/ AGMT/07 dated 26th August, 2009 by making necessary adjustments in the present contract executed by the petitioner and which is not connected to the execution of the earlier contract namely, "construction of 1000 seater boys' Hostel No.9 at IIT, Guwahati campus".

37. No explanation by IIT, Guwahati has been offered as to why the full and final payments with regard to the contract works executed by the petitioner was released without any demur in spite of communications exchange between the petitioner and the IIT, Guwahati regarding the change or alteration of the use of minimum wages index in respect of the price escalation formula.

38. It appears that although there was exchange of communications relating to the said alteration of the use of minimum wages index as such earlier entered into the contract agreement No.IITG/ ENGG/09/AGMT/07 executed on 26th August, 2009, but that will not replace the written contract executed by and between the parties. It will have to be understood that the communications exchanged between the parties did not result in a meeting of mind sufficient to alter or modify the written

agreement executed. In the agreement which is executed by and between the parties "Instructions to bidders, general conditions of contract, special conditions of contract, etc. are part of the written contract which was executed by and between the parties on 26th August, 2009. It is for the purpose of removing any doubt or ambiguity that an exhaustive written agreement was executed by and between the parties. Mere exchange of communications between the parties reflecting certain changes sought to be brought into the contract cannot replace a written contract executed by and between the parties, which has been accepted to be a binding contract by both parties as per the terms and conditions mentioned therein. Pursuant to the exchange of communications there ought to have been a proper agreement executed to ensure the change or alteration of the price escalation index has been effected and made a part of the contract in order to bind the contracting parties.

39. As discussed above, no explanation has been given by the IIT, Guwahati as to why the final amount payable to the petitioner has been released without having recourse to the amount of excessive payment stated to have been made to the petitioner on account of price escalation. No other clauses of the contract have been pointed out this

court which permits recovery of any such amount due pursuant to the contract being executed and payments been released. Consequently the impugned letter dated 17.03.2021 withholding the security deposit of the petitioner in respect of the second contract i.e. "Construction of classroom complex and extension of academic complex phase-IV at IIT, Guwahati campus" in respect of any amount stated to be receivable by the IIT, Guwahati from the petitioner in respect of that earlier contract i.e. "construction of 1000 seater boys' Hostel No.9 at IIT, Guwahati campus" cannot be held to be permitted in terms of the contract agreement No.IITG/ENGG/09/AGMT/07 dated 26th August, 2009 executed by and between the parties. It is also not submitted or pointed out before this Court that any such provision for recovery of amount due in respect of any other earlier contracts executed is permissible under the terms and conditions of the contract agreement executed by and between the parties in respect of the subsequent contract i.e. "Construction of classroom complex and extension of academic complex phase-IV at IIT, Guwahati campus".

40. In view of all the discussions above, the writ petition is allowed. The respondent IIT, Guwahati cannot withhold the security deposit in relation

to the execution of work pertaining to "Construction of classroom complex and extension of academic complex phase-IV at IIT, Guwahati campus" pertaining to Agreement No. IITG/ENGG/12/ AGMT/19 dated 01.11.2012, amounting to Rs.8,66,22,283/-. The IIT, Guwahati, cannot withhold the said amount of security deposit in respect of "Construction of classroom complex and extension of academic complex phase-IV at IIT, Guwahati campus" for the purposes of adjusting claims against the petitioner in respect of the works already executed, namely "construction of 1000 seater boys' Hostel No.9 at IIT, Guwahati campus. The writ petition is allowed to the extent indicated above and disposed of.

41. In the facts of the case, the prayer for grant of interest @ 18% per annum is rejected.

42. Accordingly, writ petition is disposed of. No order as to cost.

JUDGE

Comparing Assistant