

GAHC020006142022



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

Case No. : WP(C)/228/2022

M/S RENBO CONSTRUCTION
REGD.CLASS - 1/NPW/956,
AGRI COLONY, H/NO.254, KOHIMA, NAGALAND

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF DEVELOPMENT OF
NORTH EASTERN REGION(DONER), VIGYAN BHAVAN ANNEXE,
MAULANA AZAD ROAD,
NEW DELHI - 110011

2: THE SECRETARY,
NORTH EASTERN COUNCIL SECRETARIAT, NONGRIM HILLS,
SHILLONG – 793003

3: THE COMMISSIONER AND SECRETARY,
DEPARTMENT OF INFORMATION AND PUBLIC RELATIONS,
NAGALAND, KOHIMA

4: THE DEVELOPMENT COMMISSIONER,
NAGALAND, KOHIMA

5: THE DIRECTOR,
INFORMATION AND PUBLIC RELATIONS, NAGALAND, KOHIMA

Advocate for the Petitioner : C. T. JAMIR, SR. ADV

Advocate for the Respondent : CGSC

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BEFORE
HON'BLE MR JUSTICE MRIDUL KUMAR KALITA
ORDER

Date : 02-08-2023

Heard Mr. C.T. Jamir, learned senior counsel for the petitioner, assisted by Mr. Aliba Ozukum, learned counsel. Also heard Mr. Yangerwati, learned CGSC representing respondent Nos. 1 & 2 and Mr. N. Angami, learned Senior Government Advocate representing respondent Nos. 3, 4 & 5.

2. This instant writ petition has been filed by the petitioner M/S Renbo Construction under Articles 226 & 227 of the Constitution of India praying for issuance of writ in the nature of mandamus and/or any other appropriate writ against the respondents.

3. The facts relevant for consideration of the instant writ petition is that the Planning and Co-ordination Department, Nagaland, Kohima, had issued Work Order *vide* No. EE/PLN/NEC/FILM STUDIO DMR/2018 dated 20.04.2018 to the petitioner who is a Class-I Contractor. The Work Order was issued under the Scheme of Preservation and Promotion of Art and Culture of North East States which is funded 100% by North Eastern Council (NEC). It is also pertinent to mention that the said work relates to setting up of Film Studio at Dimapur and accordingly, the petitioner had initiated the execution of the work Order. It is stated in the writ petition that pursuant to the Work Order, the petitioner has, up to 01.07.2020, completed 40% of the work and against the said work the petitioner has also received an amount of Rs. 81.20 Lakhs (Rupees Eighty One Lakhs Twenty One Thousand only) as first installment for the said project. The first installment was released in two fractions, that is of Rs. 40.60 Lakhs (Rupees Forty Lakhs Sixty Thousand only) on 16.05.2018 and subsequently after verifying the physical progress of work a second fraction of Rs. 40.60 Lakhs (Rupees Forty Lakhs Sixty Thousand only) was released with a remark as "*in good progress*". The petitioner has further stated in the writ petition that after receipt of the

first installment the Utilization Certificate was duly submitted to the authority for release of second and third installments, however, there has been inordinate delay in releasing the second and third installments by the concerned authority. In view of the non-release of the second and third installments further execution of the aforesaid project has come to a halt and therefore, this writ petition has been filed seeking a direction to the respondent authority for releasing the pending second and third installments for completion of the ongoing construction of Film Studio at Dimapur.

4. Mr. N. Angami, learned Senior Government Advocate representing the respondent Nos. 3, 4 & 5 has submitted that as the project in question is a centrally sponsored Scheme entirely funded by Central Government, hence, unless the requisite fund is provided by the Central Government, i.e. NEC, the State Government may not be in a position to release the fund to the petitioner. On the other hand, it is also submitted that as soon as the fund is released by the NEC there will be no difficulty on the part of the State Government to release the second and third installments to the present petitioner.

5. On the other hand, Mr. Yangerwati, learned CGSC has placed on record the Letter dated 06.06.2023 issued by Director (Information and Public Relations), North Eastern Council Secretariat, wherein a request was made to the learned CGSC to inform this Court that the remaining portion of the work of setting up of Film Studio at Dimapur, Nagaland would be expeditiously completed and the competent authority has decided to discharge the remaining liability of the said NEC funded project at the earliest. In pursuance to the said Letter the respondent Nos. 1 & 2 have also filed an affidavit-in-opposition wherein it has been stated that the competent authority has decided to discharge the remaining liability of NEC funded project, namely, setting up of Film Studio at Dimapur, Nagaland for Rs. 121.80 Lakhs (Rupees One Crore Twenty One Lakhs and Eighty Thousand only) so that the remaining portion of the work is expeditiously completed and the expenditures incurred so far does not become wasteful and infructuous in public

interest.

6. In view of the averments in the affidavit-in-opposition made by the respondent Nos. 1 & 2 it is submitted at the Bar that this writ petition may be disposed of by giving a direction to the respondent Nos. 1 & 2 to release the outstanding due of Rs. 121.80 Lakhs (Rupees One Crore Twenty One Lakhs and Eighty Thousand only) within a reasonable period of time.

7. Considering the submissions made by learned counsel for the parties as well as the averments made by respondent Nos. 1 & 2 in their affidavit-in-opposition and also taking note of the Letter issued by the Director (Information and Public Relations), North Eastern Council Secretariat, to the learned CGSC on 06.06.2023, this writ petition is hereby disposed of with a direction that the respondent Nos. 1 & 2 shall disburse the remaining liability of NEC funded project, namely setting up of Film Studio at Dimapur, Nagaland, for Rs. 121.80 Lakhs (Rupees One Crore Twenty One Lakhs and Eighty Thousand only) to the respondent Nos. 4 & 5 within a period of two (2) months from the date of this order and on receipt of the said fund, the respondent Nos. 4 & 5 shall release the second and third installments of the outstanding due to the petitioner immediately so that the remaining work of the project of setting up of Film Studio at Dimapur, Nagaland may be completed at the earliest.

8. Let a copy of this order be furnished to the learned CGSC.

9. With the above observation this writ petition is hereby disposed of.

Sd/-
JUDGE

Comparing Assistant