

GAHC020006382022



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

Case No. : WP(C)/244/2022

M/S SHINIHO INAKHE
REPRESENTED BY ITS PROPRIETOR
SHRI.SHINIHO INAKHE, R/O THILIXU BLOCK NO.IV,
DIMAPUR, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND

2) THE ENGINEER-IN-CHIEF,
DEPARTMENT OF POWER, NAGALAND, KOHIMA

3) THE FINANCE COMMISSIONER,
NAGALAND, KOHIMA

4) THE CHIEF ENGINEER,
DEPARTMENT OF POWER, NAGALAND, KOHIMA

5) THE EXECUTIVE ENGINEER,
HYDEL CONSTRUCTION DIVISION, KOHIMA, NAGALAND

Advocate for the Petitioner : Z ZHIMOMI

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 27-07-2023

Heard Ms. Z. Zhimomi, learned counsel for the petitioner, and also heard Mr. E. Thiba Phom, learned Government Advocate for the State respondents.

By filing this application, the petitioner prays for a direction to release an amount of ₹5,00,734/- (Rupees Five Lakhs Seven Hundred Thirty Four) only, which is the balance amount for the contract work executed by the petitioner pursuant to the work orders issued by the respondent authority for repair and renovation of 4 (four) Type-I Quarters,- Duty Room, 6 room Barrack Kitchen and a Store House at the office of the Electrical SDO (E), Medziphema for a total amount of ₹9,89,929/- (Rupees Nine Lakhs Eighty Nine Thousand Nine Hundred Twenty Nine) only.

The learned counsel for the petitioner submits that the petitioner being a Registered Contractor & Supplier in the State of Nagaland was issued 7 (seven) numbers of work orders amounting to ₹9,89, 929/- (Rupees Nine Lakhs Eighty Nine Thousand Nine Hundred Twenty Nine) only for repair and renovation of 4 (four) numbers of Type-I quarters *etc.* The petitioner has executed and completed the works for which the respondent authority has released an amount of ₹4,99,998/- (Rupees Four Lakhs Ninety Nine Thousand Nine Hundred Ninety Eight) only out of a total of ₹9,89,929/- only as part payment. However, the respondent authority is yet to pay the balance amount of ₹5,00,734/- (Rupees Five Lakhs Seven Hundred Thirty Four) only. Therefore, the respondent authority may be directed to pay the balance amount of

₹5,00,734/- only.

Mr. E. Thiba Phom, learned Government Advocate, by referring to the affidavit filed on behalf of respondent Nos. 1, 2, 3, 4 and 5 submits that admittedly the petitioner was awarded 7 (seven) numbers of work orders amounting to ₹9,89,929/- only by the Executive Engineer, Hydel Construction Division. Out of the total work orders, the contractor/petitioner has executed only total work amounting to ₹7,83,916/- (Rupees Seven Lakhs Eighty Three Thousand Nine Hundred Sixteen) only where payment to the petitioner amounting to ₹4,99,998/- only was released on 31.03.2021. He further submits that only outstanding liability is ₹2,83,918/- (Rupees Two Lakhs Eighty Three Thousand Nine Hundred Eighteen) only which the authority shall pay as and when the fund is available.

Ms. Z. Zhimomi, learned counsel for the petitioner controverted the above submission of the learned Government Advocate specifically with regard to the execution of work amounting to ₹7,83,916/- only and submits that the petitioner has not only completed the works amounting to ₹9,89,929/- only but also executed additional works, which was asked by the authority concerned. Therefore, she submits that the petitioner is entitled to the balance amount of ₹5,00,734/- only.

I have considered the submissions of the learned counsel for the parties.

On perusal of the materials available on record, admittedly, the

respondent authority had issued 7 (Seven) numbers of work orders amounting to ₹9,89,929/- only for the execution of the works referred to above herein. It is also admitted that the petitioner has been paid an amount of ₹4,99,998/- only as on 31.03.2021. According to the State respondents, the admitted amount is ₹2,83,918/- (Rupees Two Lakhs Eighty Three Thousand Nine Hundred Eighteen) only, while disputing the balance amount claimed by the petitioner stating that the petitioner has only executed works value of an amount of ₹7,83,916/- only.

This Court is of the opinion that since the balance amount claimed by the petitioner has been disputed by the respondent authorities, the petitioner may recourse to the appropriate remedy as may be permissible under law.

However, the admitted amount of ₹2,83,918/- only is entitled to the petitioner, which is admittedly not disputed for which the respondent authorities are bound to pay.

In view of the above, this writ petition is disposed of with a direction to the State respondents to release the admitted amount of ₹2,83,918/- (Rupees Two Lakhs Eighty Three Thousand Nine Hundred Eighteen) only within a period of 2 (two) months. The petitioner is at liberty to avail the appropriate remedy as regards to the disputed amount as may be permissible under the law.

Sd/-
JUDGE

Comparing Assistant