



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

Case No. : WP(C)/190/2024

M/s Binod Kumar Malpani
represented by its sole proprietor Shri Binod Kumar Malpani, Son of Late Muralidhar Malpani, resident of Marwari Patty, PO and PS Jorhat, Jorhat District, Assam

VERSUS

The State of AP and 2 Ors
represented by the Secretary, Rural Work Department cum The Chief Executive Officer, Arunachal Pradesh Rural Road Development Agency, Govt of Arunachal Pradesh

2:The Chief Engineer Rural Work Department cum The Empwered Officer
Age: 0
Occupation :
Arunachal Pradesh Rural Road Development Agency Govt of Arunachal Pradesh
Itanagar

3:The Executive Engineer / DPIU-II
Age: 0
Occupation :
Rural Work Department (RWD) Seppa East Kameng District Arunachal Prades

Advocate for the Petitioner : Pritam Taffo

Advocate for the Respondent : Gimi Tarak

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 16-08-2024

Heard Mr. P. Taffo, learned counsel for the petitioner. Also heard Mr. G. Tarak, learned Standing Counsel representing respondent Nos. 1 to 3.

2. By filling this petition, the petitioner has prayed for a direction to the respondent authorities to release the outstanding amount of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five) only, in terms of the final bill, stated to have been admitted vide letter dated 21.01.2024 of the Executive Engineer, DPIU-II, Rural Works Department (RWD) at Seppa in East Kameng District.

3. The fact of the case in a nutshell is that on 08.07.2013, the Executive Engineer, Rural Works Department, Seppa, issued a Notice Inviting e-Tender (NIT) No. SRWD/PMGSY/Tender-1/2013-14 for construction of road from "7.00 Km Pakke-Lada Road to Tara (Stage-II), under package No. AR/03/01/066" with an estimated cost of 254.38 Lakhs. Pursuant to the said NIT, the petitioner participated in the tender process and the tender of the petitioner was duly accepted and an agreement was executed between the petitioner and the respondent authority on 24.09.2013 for the aforesaid work.

4. Pursuant to the agreement, the petitioner started the work and completed

the same within the stipulated time. Upon completion of the work, the respondent authorities prepared and approved the bill out of which remaining an amount of Rs 15,80,275.00 (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five), countersigned by the PIU, vide letter, dated 21.01.2024 and forwarded it to the respondent Nos. 1 and 2 requesting to release the amount for further payment to the petitioner firm. But, the respondent authorities did not release the admitted pending bills of the petitioner firm by citing the reason that there was public complaint regarding irregularity in the execution of the PMGSY road under Bameng WRD, Division, among which the road project of the petitioner firm was also included and the matter was handed over to the Special Investigation Cell (SIC).

5. On the basis of the complaint, various enquiries took place and the Special Investigation Cell (SIC) of the Arunachal Pradesh Police has taken up the case being SIC(VIG)PS.ENQ.NO.37/2017 against several road projects in the district of East Kameng including the work which the petitioner was awarded. Due to such registration of the case, the payment of bills was not made.

6. After enquiry by the SIC, no anomalies have been found against the petitioner while executing the aforesaid work. As no anomalies were found against the said work by the petitioner, the SIC sought permission to close the enquiry by SIC(VIG)PS.ENQ.NO.37/2017, dated 24.08.2022. Accordingly, the Under Secretary (Vigilance) Government of Arunachal Pradesh vide letter dated 21.02.2023 had informed the Government approval for the request of the closure of the said case including that of the road which was executed by the petitioner.

7. The Rural Works Department, Government of Arunachal Pradesh vide the letter dated 09.05.2023 furnished the vigilance report to the Director (RC) Ministry of Rural Development, Government of India, Krishi Bhawan, New Delhi.

8. Mr. P. Taffo, learned counsel for the petitioner submits that since all the allegations against the petitioner was not found to be true and the vigilance report had gone in favour of the petitioner, the respondent authorities are bound to make payment of the outstanding bill of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five).

9. Mr. P. Taffo, learned counsel for the petitioner further submits that the petitioner has already completed the construction of road from “*7.00 Km Pakke-Lada Road to Tara (Stage-II), under package No. AR/03/01/066*” despite the non-release of the outstanding bill by investing huge amount and has even taken personal loan from relatives on interest basis. Mr. P. Taffo, learned counsel for the petitioner further submits that one contractor *M/s Nayak Infrastructure Pvt. Ltd Construction*, who had executed one of the 12 road projects of East Kameng District i.e., construction of road from Bameng to Lada under package No. AR/03/01/021 who is equally situated, had filed a writ petition before this Hon’ble High Court being WP(C)/194(AP)/2022 seeking release of the outstanding bill. This Court vide order dated 15.03.2023 directed the respondent authorities to release the payment for the work executed by the petitioner within a period of one month from the date of receipt of the certified copy of the order. He further submits that he has approached the concerned authorities but the authorities are reluctant to release the outstanding amount of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and

Seventy Five) without any justification.

10. Mr. G. Tarak, learned Standing counsel, RWD, representing respondent Nos. 1 to 3, conceded with the submissions made by the learned counsel for the petitioner and have not disputed the entitlement of the petitioner to receive the amount of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five).

11. Having considered the submissions of the learned counsel for the petitioner and considering that the submissions and prayer of the petitioner has not been opposed and denied by the learned counsel for the respondents, this Court is of the view that the entitlement of the petitioner to receive an amount of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five) for the construction of road from “*7.00 Km Pakke-Lada Road to Tara (Stage-II), under package No. AR/03/01/066*” cannot be denied. Since the payment was stopped due to enquiry on the complaints and the enquiry has culminated into a closer report and nothing has been found against the petitioner, there is no reason as to why the amount of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five) for the construction of road from “*7.00 Km Pakke-Lada Road to Tara (Stage-II), under package No. AR/03/01/066*” should not be paid to the petitioner.

12. In view of the above, the respondent authorities are directed to release the payment of Rs. 15,80,275.00/- (Rupees Fifteen Lakhs Eighty Thousand Two Hundred and Seventy Five) , in terms the letter dated 21.01.2024 of the Executive Engineer, DPIU-II, Rural Works Department (RWD), Seppa, East Kameng District for execution of the work by the petitioner for the construction

of road from “*7.00 Km Pakke-Lada Road to Tara (Stage-II), under package No. AR/03/01/066*”, within a period of 3 (three) months from the date of receipt of certified copy of this order.

13. The writ petition stands allowed and disposed of with the above direction.

JUDGE

Comparing Assistant