



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

Case No. : WP(C)/280/2023

Takam John
S/o Lt. Takam Siki,
Village Jollang, PO Palin, PS Sangram, Kra Daadi District, Arunachal Pradesh.

VERSUS

THE STATE OF AP and 4 Ors. to be represented through the Chief Secretary, Govt.
of Arunachal Pradesh, Itanagar.

2:the Chief Engineer
Age: 0
Occupation :
Central Zone A PWD Itanagar (AP)

3:the Superintending Engineer
Age: 0
Occupation :
Yachuli Civil Circle PWD Yachuli (AP)

4:the Executive Engineer
Age: 0
Occupation :
Palin Division PWD AP Camp Palin

5:the Junior Engineer
Age: 0
Occupation :
Palin Division PWD AP Camp Palin

Advocate for the Petitioner : M Nibo

Advocate for the Respondents : Ms. K. Wangmu, GA (AP)

**BEFORE
HONBLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

Date : 17-06-2024

Heard Mr. M. Nibo, learned counsel for the petitioner and Ms. K. Wangmu, learned Government Advocate for the State of Arunachal Pradesh for all the official respondent nos. 1 to 5.

2. Petitioner contended that the authority of PWD Division Palin some times in the month of May 2022 directed him to execute the work for special repairing and maintenance of road and bridges including restoration of road damages under the Department of PWD, Palin Division of Kra Daadi District, Arunachal Pradesh. On the basis of said direction, the petitioner executed and completed the work to the outmost satisfaction of the authority concerned in the PWD Division of Palin. Though he has completed the work by investing huge amount of his hard-earned money but the bills for the said work has not yet been released to him by the respondent PWD authorities.

3. Though petitioner on several occasions approached the authorities concerned requesting them to pay him his rightful dues releasing his pending bills but since the year 2022 the authorities in the PWD, Palin Division on various pretext excused themselves from releasing such dues to the petitioner. Having no alternative, the petitioner filed this writ petition on 20.06.2023, praying amongst others, for a direction to the Executive Engineer, Palin Division, PWD, Arunachal Pradesh, Camp Palin to release his rightful dues, i.e, pending

bill amount of Rs. 42,00,000/- (Rupees forty two lakhs).

4. To substantiate his claims, the petitioner placed the communication No. SEYCC/BT-33/2022-23/5186, dated 20.09.2022 issued by the Superintending Engineer, Yachuli Civil Circle, PWD, Arunachal Pradesh, recommending for LOC demand for contractor payment for the month of September 2022 in respect of the Executive Engineer, PWD, Palin Division amounting to Rs. 89,000,00/- (Rupees Eighty Nine lakhs) under pending liabilities with a request for taking further necessary action at his end. With regard to said LOC requirement, the said Superintending Engineer, Yachuli Civil Circle, PWD also issued necessary certificate of LOC demand together with fund allocation available during the financial year 2022-2023, stating that all works were sanctioned against which LOC demand were proposed and physical progress of the works where LOC demand/proposed were commensurate with financial progress of the work. The petitioner on 22.03.2023, also wrote to the Chief Engineer, Central Zone-A, PWD, Itanagar, requesting the said authority for immediate release of LOC, making payment of his necessary dues, but payments have not been made to him for his said alleged work with the PWD, Palin Division.

5. Notice in this case was issued on 21.06.2023 and the Executive Engineer, Palin Division, PWD, Arunachal Pradesh, Camp Palin, respondent no. 4 filed the detailed affidavit in the matter on 13.03.2024, denying all the claims of the petitioner. The said respondent no. 4 in its affidavit filed on 13.03.2024, stated that the records with the said Office discloses that no such works as claimed by the petitioner had ever been awarded to it for execution in the year 2022 and moreover, there was no such sanctioned work and/or fund allotment for such work as been claimed by the petitioner. The respondent no. 4 also denied the

fact of receiving any kind of representation from the petitioner by its Office for release of payment of any such works executed by it. The Respondent No. 4 further denied that it engaged the petitioner for any kind of work under the said establishment, either of the sanctioned work or where fund was yet to be allotted to carry out such works.

6. The said respondent no. 4, in the affidavit categorically stated that the then Executive Engineer on being enquired, informed that in spite of his refusal, the petitioner persuaded him to place LOC demand by which he will be able to manage by himself and that said LOC demand letter was followed up personally by the petitioner. The respondent no. 4 stated such LOC/fund demand was made without any fund allotment which was rejected by the concerned Chief Engineer as there was no any sanctioned work nor any fund allotment order. It is also stated by the respondent no. 4 that there are no records in the Measurement Book (MB), copies of Work Order(s), first and final bills in the establishment of the Executive Engineer, Palin Division, PWD to substantiate the claim of the petitioner.

7. The writ Court can entertain a writ petition with regard to such non-payment of bill amounts only when it is duly admitted by the respondent(s) concerned for the work done/executed by the petitioner/applicant.

8. In the case in hand, the respondents in the PWD, Arunachal Pradesh, more particularly, the Executive Engineer, PWD, Palin Division, Arunachal Pradesh, not only rejected the demand made by the petitioner pertaining to his non-payment of bills but also raised a dispute regarding any such work executed by the petitioner during the year 2022 under the said authority.

9. It is well settled in law that disputed question of facts cannot be entertained in a writ petition. Moreover, the petitioner has also failed to establish any such work order issued to him by the respondents concerned.

10. For the reasons above, this writ petition being not maintainable, involving disputed question of facts, stands dismissed.

11. Needless to say, the petitioner may approach the appropriate forum in the Civil Court for his unpaid dues from the respondents in the PWD, Palin Division, if so advised.

JUDGE

Comparing Assistant