

GAHC040009292023



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

Case No. : WP(C)/325/2023

M/s J. J Enterprise
Represented by Sole Proprietor Shri Kipa Rokio,
Having registered office at Daria Hill, PO/PS Itanagar,
Corresponding Address M/s JJ Enterprise, 6 Km, Itanagar, PO/PS Itanagar. District
Papum Pare, Arunachal Pradesh.
Mobile No. 9436258281

VERSUS

THE STATE OF AP and 8 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.

2:the Secretary (Tourism)
Age: 0
Occupation :
Govt. of Arunachal Pradesh
Itanagar.

3:the Director (Tourism)
Age: 0
Occupation :
Govt. of Arunachal Pradesh
Itanagar.

4:the Deputy Director cum Nodal Officer (projects)
Age: 0
Occupation :
Tourism
Govt. of Arunachal Pradesh
Itanagar.

5:the Commissioner/Secretary

Age: 0

Occupation :

Public Works Department

Govt. of Arunachal Pradesh

Itanagar

AP

6:the Chief Engineer

Age: 0

Occupation :

PWD

Central Zone A

Govt. of Arunachal Pradesh

Itanagar.

7:the Superintending Engineer

Age: 0

Occupation :

PWD

Yachuli Circle

Yachuli

8:the Executive Engineer

Age: 0

Occupation :

PWD

Sangram Division

District Kurung Kumey

Arunachal Pradesh.

9:Nakap Nalo

Age: 0

Occupation :

the Minister Tourism

AP Civil Secretariat Block II

3rd Floor

PO/PS Itanagar

Papum Pare District

Arunachal Pradesh

Itanagar

Advocate for the Petitioner : Lissing Perme, Tabung Nonang,T Gamlin,A Perme,William Yirang,Wintet Sawin,Krishna Dubey

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 04.11.2024

Heard Mr. L. Perme, learned counsel for the petitioner. Also heard Mr. N. Ratan, learned Additional Advocate General for the respondent Nos. 1, 5, 6, 7 & 8 and also heard Mr. N. Pada, learned counsel appearing for the respondent Nos. 2, 3 & 4.

2. This writ petition is directed against the letter, dated 16.12.2022, written to the Executive Engineer, PWD Sangram Division, Government of Arunachal Pradesh, by the Secretary (Tourism), Government of Arunachal Pradesh, vide File No. DOT-12/14/2022 - O/o The Director-Tourism-Directorate of Tourism/1027, whereby, Detailed Project Report (DPR) against the project "Construction of Eco-Tourism Villag at Jacha (Tabiang) village, Nyapin Kurung Kumey District", which was prepared for Rs. 5,00,00,000/- (Rupees Five Crore) only has now been informed to be modified to the value of Rs. 50,00,000/- (Rupees Fifty lakhs) only due to constraint of fund provision in the Department of Tourism.

3. It is submitted by Mr. Perme, learned counsel for the petitioner that the department concerned has invited the tender and the petitioner has also participated in the tender process and in pursuance of the petitioner's

participation in the aforesaid tender, an agreement dated 26.11.2022 was signed between the Executive Engineer, Sangram Division, PWD and the petitioner's firm for execution of the *Eco-Tourism Village at Jacha (Tabiang) village, Nyapin Kurung Kumey District (Phase-I)* at the cost of Rs. 4,57,38,432/- (Rupees Four Crore Fifty-Seven Lakhs Thirty-Eight Thousand Four Hundred & Thirty-Two) only.

4. In pursuant to the said agreement, the petitioner has already executed about 50% of the work. But thereafter, vide impugned letter dated 16.12.2022 as stated above written to the Executive Engineer, PWD Sangram Division, Government of Arunachal Pradesh, by the Secretary (Tourism), Govt. of Arunachal Pradesh. The project was restricted for Rs. 50,00,000/- (Rupees Fifty Lakhs) only which is not justified and reasonable, since, the petitioner has already completed 50% of the project work and if the said letter is implemented, the petitioner will suffer grave loss and prejudice in monetary terms.

5. Further, it is submitted by Mr. Perme, learned counsel for the petitioner that the Tourism Department has no authority to write the letter as the Cabinet Sub-Committee has already approved and sanctioned the project at an estimated cost of Rs. 5,00,00,000/- (Rupees Five Crore) only on 17.07.2022. Further, it is submitted that as per the accorded expenditure sanction an amount of Rs. 50,00,000/- (Rupees Fifty Lakhs) only has been utilized during the financial year of 2022-23 against the approved estimated project cost of Rs. 5,00,00,000/- (Rupees Five Crore) only, which is only 10% of the tender. However, the petitioner has already

completed 50% of the work by investing his hard earn money to complete the project within 18 (Eighteen) months which was the dead line for completion of work on public interest.

6. It is further submitted by Mr. Perme, learned counsel for the petitioner that the project was approved by 3(three) member's Cabinet Sub-Committee headed by the Chief Minister, Minister of Finance and the Minister of Tourism and it is normal precedent that the decision of Cabinet Sub-Committee can only be reviewed by Cabinet Sub-Committee itself. Thus, the Minister of Tourism has no authority to over-right the decision of Cabinet Sub-Committee headed by the Chief Minister. Accordingly, it is prayed by Mr. L. Perme, learned counsel for the petitioner for setting aside and quashing of the letter No. DOT-12/14/2022, O/o Director Tourism-Directorate of Tourism/1027 dated 16.12.2022, addressed to the Executive Engineer, PWD Sangram Division, Govt. of Arunachal Pradesh and also prayed to set aside and quashed the letter issued by the Minister of Tourism, vide its letter No. TTLMCA-09/2019//446 dated 20.10.2022.

7. Mr. N. Ratan, learned Additional Advocate General submitted in this regard that Office of the Executive Engineer, PWD Sangram Division has never received any official copy of the letter dated 20.10.2022 from the Minister of Tourism, which was later on forwarded to the Department of Tourism, Itanagar on 16.12.2022. And the work order was accordingly issued to the concerned contractor to proceed with the work of "*C/o Eco-Tourism Village at Jacha (Tabiang) village Nyapin Kurung Kumey District*".

8. Further, it is submitted by Mr. Ratan, learned Additional Advocate General that the present respondent also has no authority to recast or modify the tender process which was followed by the contract agreement and in pursuance to the agreement, the contractor has already started to work with the project. Moreso, there is no any official communications through the Director of Tourism received by the office from the respondent, wherein, the cost was restricted up to 50,00,000/- (Rupees Fifty Lakhs) only due to constraint of fund. Mr. Ratan, learned Additional Advocate General accordingly submitted that the present respondent Nos. 1, 5, 6, 7 & 8 has no objection in allowing the present writ petition.

9. Mr. N. Pada, learned counsel for the respondent Nos. 2, 3 & 4 submitted that the said respondents are not going to press the affidavit-in-opposition filed earlier by the Department of Tourism and they support the contention made in the affidavit-in-opposition filed by the respondent Nos. 1, 5, 6, 7 & 8.

10. Considering the entire submissions made by the learned counsel for both sides, the terms and conditions of the agreement and also considering the fact that the petitioner has already completed 50% of the work, the present writ petition is allowed by setting aside and quashing the letter No. TTLMCA-09/2019//446 dated 20.10.2022, issued by the Minister of Tourism as well as the letter No. DOT-12/14/2022, O/o Director Tourism-Directorate of Tourism/1027 dated 16.12.2022 and the respondents are also hereby directed to comply with the tender agreement dated 26.11.2022, between the petitioner and the Executive

Engineer, PWD Sangram Division on behalf of the Government of Arunachal Pradesh.

11. The release of the remaining funds, as prayed for by the petitioner, will be decided by the authority concerned by verifying the completion of work done by the petitioner. The petitioner is also further directed to complete the project work within time stipulated in the agreement.

12. With the above observation, the present writ petition stands allowed and is disposed of.

JUDGE

Comparing Assistant