

GAHC010059992024



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

Case No. : WP(C)/1699/2024

MRIGEN SUTRADHAR
S/O- LATE PRAFULLA KUMAR SUTRADHAR,
R/O- DISPUR, SUPER MARKET, GUWAHATI,
P.O- DISPUR, PIN-781006,
DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY, TO THE GOVERNMENT
OF ASSAM, PWD (ROADS) DEPARTMENT ,
DISPUR, GUWAHATI -6

2:THE CHIEF ENGINEER
PWD (ROADS)

ASSAM CHANDMARI GUWAHATI 781003 ASSAM

3:THE SUPERINTENDING ENGINEER
PWD SILCHAR BUILDING CIRCLE
SILCHAR
ASSAM

4:THE EXECUTIVE ENGINEER PWD
HAILAKANDI DISTRICT TERRITORIAL BUILDING DIVISION
HAILAKANDI
-78815

Advocate for the Petitioner : MR. A D CHOUDHURY

Advocate for the Respondent : SC, P W D

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 27.03.2024

Mr. A. D. Choudhury, learned counsel for the petitioner submits that he may be allowed to withdraw this writ petition, with liberty to avail of Clause 24 & 25 of the Contract Agreement for constitution of a Dispute Review Board, to settle the dispute between the parties.

2. Mr. B. Gogoi, learned counsel for the PWD submits that he has got no objection to the prayer of the petitioner.

3. The petitioner's case is that despite the petitioner having been awarded a contract, which was to be completed within two years, the same has been terminated prior to expiry of two years. The petitioner claims Rs. 43,66,676/- for the work done by the petitioner.

4. On the other hand, as per the statement of final account (revised) made by the Executive Engineer, PWD, Hailakandi District Territorial Building Division, the debt payable by the petitioner to the employer (respondents) amounts to Rs. 28,88,684/-.

5. In view of the above disputed questions of facts, the prayer of the petitioner's counsel is allowed.

6. The writ petition is dismissed as withdrawn, with liberty being given to the petitioner to avail of Clause 24 & 25 of the Contract Agreement, which states as follows:-

“24. Disputes

24.1. If the Contractor believes that a decision taken by the

Engineer was either outside the authority given to the Engineer by the Contract or that the decision was wrongly taken, the decision shall be referred to the Dispute Review Board within 14 days of the notification of the Engineer's decision.

25. Procedure for Disputes

25.1. *The Dispute Review Board shall be constituted with three members, one from Employer, One from Contractor and the other to be nominated jointly by the above two members to give a decision in writing within 28 days of receipt of a notification of a dispute.*

25.2. *The Dispute Review Board shall be paid daily at the rate specified in the Contract Data together with reimbursable expenses of types specified in the Contract Data and the cost shall be divided equally between the Chief Engineer, PWD(Building), Chandmari, Guwahati-3, Assam, and the Contractor, whatever decision is reached by the Dispute Review Board. Either party may give notice to the other to refer a decision of the Dispute Review Board to an Arbitrator within 28 days of the Dispute Review Board's written decision. If neither party refers the dispute to arbitration within the next 28 days, the Dispute Review Board's decision will be final and binding.*

25.3. *The arbitration shall be conducted in accordance with the arbitration procedure stated in the Special Conditions of Contract (SCC)."*

7. The delay on the part of the petitioner in availing Clause 24 & 25 of the Contract Agreement should be condoned by the concerned authorities, provided

the petitioner's representation on the same is submitted to the respondent authorities, within a week from today.

JUDGE

Comparing Assistant