

GAHC010076172022



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

Case No. : WP(C)/2704/2022

EASTERN ENVO PROTECT
REP. BY ITS GENERAL MANAGER LAKSHMI MITRA, PROGOTI
COMMERCIAL COMPLEX, (OPP. PANTALOONS), G.S. ROAD, GUWAHATI-
781022, DIST. KAMRUP(M), ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HEALTH AND
FAMILY WELFARE DEPTT., 4TH FLOOR, A BLOCK, ASSAM SECRETARIAT,
DISPUR, GUWAHATI-6, ASSAM.

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PUBLIC WORKS DEPTT.
GROUND FLOOR
B BLOCK
ASSAM SECRETARIAT
DISPUR
GHY.-6
ASSAM.

3:THE SUPERINTENDENT CUM MEMBER SECRETARY
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GHY.- 781032.

4:THE CHIEF ENGINEER
P.W.D.
P.W.D. BUILDING
ASSAM
CHANDMARI
GHY.- 781003.

5:THE SUPERINTENDING ENGINEER
P.W.D.
GUWAHATI BUILDING CIRCLE-II
CHANDMARI
GHY.- 781003.

6:THE ASSTT. EXECUTIVE ENGINEER
P.W.D.
M.C.C. SUB-DIVISION
DISPUR
GHY.- 781032.

7:THE EXECUTIVE ENGINEER
P.W.D.
GUWAHATI BUILDING DIVISION NO. II
DISPUR
GHY.-06

Advocate for the Petitioner : Mr. S.S.S. Rahman, Advocate

Advocate for the Respondents : Mr. D. Upamanyu, SC, Health
Mr. B. Gogoi, SC, PWD

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 19.07.2024

Date of Judgment : 19.07.2024

JUDGMENT AND ORDER (ORAL)

Heard Mr. S.S.S. Rahman, the learned counsel for the petitioner. Also heard Mr. D. Upamanyu, the learned counsel appearing on behalf of the Health Department and Mr. B. Gogoi, the learned counsel appearing on behalf of the PWD.

2. The petitioner herein is aggrieved by the non-payment of its

contractual dues and as such has approached this Court. A perusal of the documents enclosed to the writ petition shows that the Superintendent, Office of the Hospital Management Society, Guwahati Medical College Hospital (GMCH) had entered into an agreement with the petitioner for the purpose of operation and maintenance of all mechanical and electrical equipments of the existing sewage treatment plant of GMCH which should run on 24 hours daily. This agreement was entered into on 10th of July, 2015 and the amount to which the petitioner was entitled to as a consideration for the service to be rendered was Rs.2,81,600/- inclusive of all taxes per month. It is seen that the petitioner rendered its service in terms with the agreement and submitted the bills from time to time. At the time of filing of the instant writ petition, the accumulated bills to which the petitioner was entitled to was Rs.78,84,800/-. It is also seen that thereupon also the petitioner was not made any payment regularly and as on filing of the affidavit on 19.02.2024, the petitioner claims that the petitioner is entitled to an amount of Rs.1,43,61,600/- which was inclusive of the amount of Rs.78,84,800/-. It is also seen that from time to time, the Health Department has continued to extend the service of the petitioner. Relevant herein to mention that from the year 2020 onwards till date, the services of the petitioner is being taken by granting due extension.

3. The record further reveals that affidavit has been filed by the respondent GMCH through its Superintendent wherein there is no denial to the aspect that the petitioner is not entitled to the amount of Rs.1,43,61,600/-. However, the stand which has been taken is that the payments to be made to the petitioner have been cleared upto the month

of February, 2020. However, the bills raised by the petitioner firm for the subsequent period have not yet been paid on account of the bills were raised from time to time and the petitioner firm has been found to have failed to comply with their contractual obligations to provide the services in terms with the agreement. It was further alleged that there were various issues as regards the services rendered by the petitioner pertaining to deployment of manpower, maintenance of various records etc. It was also mentioned that the sewage treatment plant at GMCH was not found to be well maintained and on several visits of the sewage treatment plant site by the duly constituted Sewage Treatment Plant Inspection Committee comprising of the technical persons from the State Pollution Control Board, various negative aspects on the services being provided by the petitioner's firm was reported. It was also mentioned that there was also public complaint in that regard and on various occasions, the petitioner was also informed to do the needful.

4. This Court however finds it very relevant to take note of that inspite of those deficiencies which have been pointed out for which there has been no payment of the bills made since March, 2020, the respondent authorities continued to avail the services of the petitioner for the last more than 4 years. It is completely not understandable as to why the respondent authorities have not taken up any other service provider but rather continued with the petitioner inspite of those deficiencies. In the opinion of this Court that the stand of the respondent authorities to not make payment to the petitioner against the running bills is not at all justifiable taking into account that they continued to avail the services and when the question came about payment of the consideration against the

services rendered by the petitioner, the respondent authorities have taken as stand that the services of the petitioner were not up to the mark. Under such circumstances, it is the opinion of this Court that the petitioner is entitled to its contractual dues as claimed in the writ petition to the tune of Rs.1,43,61,600/- subject to necessary verification to be carried out by the authorities of the GMCH.

5. Accordingly, this Court therefore disposes of the instant writ petition with a direction to the respondent authorities, more particularly the respondent Nos.1 & 3 to take appropriate steps to carry out the necessary verification as regards the petitioner's entitlement and if it is found that the petitioner is entitled to the amount of Rs.1,43,61,600/- or any part thereof, the same be paid within 4 (four) months from the date a certified copy of the instant order is served upon the Superintendent, GMCH.

JUDGE

Comparing Assistant