

GAHC010165242021



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

Case No. : WP(C)/5436/2021

M/S JOGANIAR AND ANR
A PROPRIETORSHIP CONCERN, HAVING ITS OFFICE AT C.K.ROAD,
PANBAZAR, GHY-01, DIST.- KAMRUP (M), ASSAM, REP. HEREIN BY ITS
PROPRIETOR SRI RASSEL HUSSAIN

2: RASSEL HUSSAIN
S/O- MR. HAIDAR HUSSAIN
R/O- C.K.ROAD
P.S. PANBAZAR
DIST.- KAMRUP (M)
ASSA

VERSUS

THE MISING AUTONOMOUS COUNCIL AND ANR
REP. HEREIN BY THE PRINCIPAL SECY. TO THE COUNCIL, GOGAMUKH,
DHEMAJI, ASSAM

2:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSA

Advocate for the Petitioner : MR R SENSUA

Advocate for the Respondent : SC, M A C

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE

ORDER25.04.2024.

Heard Mr. R. Sensua, learned counsel for the petitioner. Also heard Mr. D. Gogoi, learned Standing Counsel for the Mising Autonomous Council appearing for the respondents.

2. By filing this Writ Petition, the petitioner has prayed for a direction to release the outstanding amount of Rs.2,71,420/- (Rupees two lakh seventy one thousand four hundred and twenty) only, out of total amount of Rs.66,37,500/- (Rupees sixty six lakh thirty seven thousand and five hundred) for execution of work of supply of Steel Almirah, to the office of the Mising Autonomous Council.

3. The petitioner is a proprietorship firm engaging in various contractual works under different authorities of the State. Pursuant to the NIT No.MQC/684/2016-17/8057, dated 02.09.2016, issued by the Mising Autonomous Council for supply of 500 numbers of Steel Almirah, the petitioner was awarded the work for supply of Steel Almirah. Thereafter, the petitioner supplied the said 500 numbers of Steel Almirah to the office of the Mising Autonomous Council in the Dhemaji District.

4. The petitioner submitted a total bill amount of Rs.66,37,500/- (Rupees sixty three lakh sixty six thousand and eighty) only against the supply of said 500 Steel Almirah. Accordingly, the respondent council had released the part payment of Rs.63,66,080/- (Rupees sixty three lakh sixty six thousand and eighty) only in two installments. However, despite several requests made by the petitioner, the remaining amount of Rs.2,71,420/- (Rupees two lakh seventy one thousand four hundred and twenty) has not been released. Hence, the present

Writ Petition is filed for directing the respondents to release the admitted amount of Rs.2,71,420/- (Rupees two lakh seventy one thousand four hundred and twenty).

5. Mr. D. Gogoi, learned Standing Counsel for the Mising Autonomous Council, referring to the affidavit-in-opposition, filed on behalf of the respondent No.1, submits that the Council has already released an amount of Rs.63,66,080/- only in two installments. He submits that by the time, the actual supply of the Steel Almirahs were made, the tax regime has been changed to GST and the petitioner had submitted the total bill amounting to Rs.66,37,500/- only, by adding CGST and SGST. The payment of Rs.63,66,080/- only could be made because of the available amount before the change of the tax regime. Mr. Gogoi further submits that the admitted claim amount of Rs.2,71,420/- could not be paid, as it exceeded the original budget as per the AOP. In other words, Mr. Gogoi submits that due to insufficient amount in the AOP against the bill, the total payment could not be released.

6. Having considered the submissions of learned counsel for the parties and averments made in the Writ Petition as well as the affidavit-in-opposition, it is clear that the claim amount is not disputed, save and except that it has exceeded the budget AOP. No dispute has been raised with regard to supply of the Steel Almirahs, as per the NIT, rather clearly admitted that 500 numbers of Steel Almirahs were supplied by the petitioner.

7. Considering that there is no dispute to the claim amount and the supply of the Steel Almirahs by the respondents', I deem it appropriate to dispose of the Writ Petition by directing the Mising Autonomous Council to release the admitted outstanding bill amount of Rs.2,71,420/- (Rupees two lakh seventy one thousand four hundred and twenty) only.

8. Accordingly, the Writ Petition is disposed of with a direction to the respondent Nos.1 & 2 to release the admitted outstanding amount of Rs.2,71,420/- (Rupees two lakh seventy one thousand four hundred and twenty) only, within a period of one month, from the date of receipt of this order.

9. It is made clear that if the aforesaid amount is not released within one month, same shall carry interest @ 9% per annum, till the final payment is made.

JUDGE

Comparing Assistant