

GAHC030001552024



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

Case No. : WP(C)/14/2024

Smt. Lalthianghlimi
D/o Thansanga (L),
R/o Mission Veng, Aizawl, Mizoram

VERSUS

The State of Mizoram R/b The Chief Secretary to the Govt. of Mizoram and 3 Ors.
Aizawl

Advocate for the Petitioner : Mr. Lalpianfela Chawngthu

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1-4

ORDER
B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

15.10.2024

Heard Mr. Lalpianfela Chawngthu, learned counsel for the petitioner and Ms. H Lalmalsawmi, learned Government Advocate appearing for all the respondents. Having regard to the nature of the case projected by the petitioner, the writ petition is taken up for final disposal at the admission stage.

[2.] It is the case of the petitioner that he was awarded three different works

under the Directorate of Urban Development & Poverty Alleviation (UD&PA), Mizoram, vide Work Orders all dated 05.10.2023. As per the Work Orders, the works described were to be complete within 12 months from the date of issue of the Work Orders. The petitioner, therefore, started collecting necessary raw-materials for undertaking the construction work but while he was in the process, he was informed by the officials of the UD&PA not to begin the work but wait for further instructions. While the petitioner obediently waited further instructions to go ahead with the work, the respondent No. 4 abruptly issued the impugned Orders all dated 16.02.2024 cancelling the Work Orders issued to the petitioner. Aggrieved, the petitioner is before this Court.

[3.] Mr. Lalpianfela Chawngthu, learned counsel for the petitioner submits that prior to issuance of the impugned Order dated 16.02.2024, no notice or opportunity was given to the petitioner to show cause as to why the Work Orders that were issued to him should not be cancelled. In fact, the petitioner had already collected good quantity of raw-materials to undertake the construction work. With issuance of the impugned cancellation work, the petitioner has therefore suffered great loss and hardship. He, thus, submits that the impugned cancellation Orders should be set aside and the petitioner should be allowed to undertake the work in terms of the Work Orders issued to him. In

support of his submission, he relies upon the case of *Suboth Kumar Singh Rathour vs. The Chief Executive Officers & Ors. (2024) SCC Online SC 1682*.

[4.] Ms. H Lalmalsawmi, learned Government Advocate, on the other hand, submits that although the petitioner was issued the Work Orders on 05.10.2023 but on account of the ensuing the State Assembly Election, the Model Code of Conduct came to be enforced in the State w.e.f. 09.10.2023 and by that time, the petitioner had not started the work. The Govt. of Mizoram in the General Administration Department issued a Circular on 18.12.2023 by which, it was conveyed to all concerned that all the Work Orders for which works had not started at the time of enforcement of the Model Code of Conduct were to be stayed. She submits that admittedly, the petitioner did not start the work as on 09.10.2023, which was barely 4 days after the issuance of the Work Orders and therefore the petitioner cannot have any grievance with the cancellation of the Work Orders. She submits that after voting for the State Assembly Election was over, counting was done on 03.12.2023 and a new Ministry was formed on 08.12.2023. The new Ministry thereafter took a decision that the works which had already started before the enforcement of the Model Code of Conduct be allowed to continue and as for the works which had not started, the same should be cancelled. Since the petitioner had not started the work, he cannot

have any grievance with the impugned cancellation Orders.

[5.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record. From a perusal of the Work Orders issued to the petitioner which are all dated 05.10.2023, there is no indication that there was some sort of selection before awarding the work to the petitioner. It therefore appears that the petitioner was randomly picked up to undertake the works concerned and that too, near the fag end of the earlier Ministry. Facts not disputed is that the Model Code of Conduct came to be enforced with effect from 09.10.2023 and by then the petitioner has not started the work. Ordinarily, the respondents would be required to issue notice to the petitioner prior to cancelling the Work Orders but having regard to the manner in which the Work Orders were issued, this Court finds that the same may not vitiate the cancellation of the Work Orders under the given facts and circumstances. In other words, it cannot be said that the petitioner has any vested right to proceed and complete the work which has been issued to him without any process of selection. Therefore, this Court finds no merit in the writ petition and same is dismissed.

[6.] However, before parting with the records, it is seen that this Court while issuing notice of motion on 08.03.2024 had passed an interim order to the

effect that no fresh work orders against Works allotted to the petitioner should be issued to anyone. The said interim order continues till today. Therefore, while vacating the interim order, it is provided herein that in the event the respondent authorities decide to issue fresh allotment of the Works, they should follow due process of law and also, give the petitioner appropriate consideration for being allotted the works.

[7.] With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant