

GAHC020002792024

2024:GAU-NL:528-DB



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

Case No. : WA/17/2024

STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND

2: THE COMMISSIONER AND SECRETARY
DEPT. OF MUNICIPAL AFFAIRS
NAGALAND KOHIMA

3: THE DIRECTOR
DIRECTORATE OF MUNICIPAL AFFAIRS
NAGALAND KOHIMA

4: THE EXECUTIVE ENGINEER
DIRECTORATE OF MUNICIPAL AFFAIRS
NAGALAND KOHIM

VERSUS

M/S ZELIEZHU AND ANR
GOVT. REGD. CLASS-1 CONTRACTOR AND SUPPLIER
REPRESENTED BY ITS PROPRIETOR SHRI. ZELIEZHU
R/O P.R. HILL
KOHIMA NAGALAND

2:GOVT. OF INDIA
MINISTRY OF URBAN DEVELOPMENT
NYRM SECTION
NIRMAN BHAWAN
NEW DELHI-11010

Advocate for the Petitioner : Mr. N. Angami, GOVT ADV NL,

Advocate for the Respondent : N. LONGKUMER,

XAVIOR KENT,
NISUKA CHISHI,
LUCY WEO,
KIM PIENYU,
REBECCA

BEFORE
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 30-09-2024

(Vijay Bishnoi, CJ)

This intra-Court appeal is filed by the State of Nagaland being aggrieved with the order dated 22.02.2024 passed in WP(C) No. 86(K)/2019, whereby the learned Single Judge has disposed of the writ petition filed on behalf of the private respondent herein with the direction to the State of Nagaland to disburse the amount of Rs. 18,70,250/- (Rupees Eighteen Lakh Seventy Thousand Two Hundred and Fifty) to the private respondent within a period of four months from the date a certified copy of the order is served upon the respondent No. 3, i.e. the Director, Directorate of Municipal Affairs, Nagaland, Kohima. In the impugned order, the learned Single Judge has further observed that if the respondent No. 3 fails to make the payment within the stipulated time, they shall be liable to pay interest @ 7.5% per annum from the date of default, i.e. the date of expiry of four months from the date of service of the certified copy of the judgment and order.

However, the learned Single Judge has kept it open for the State of Nagaland to pursue its remedies against the Central Government in respect of the amount, which the respondent State has been directed to pay.

The relevant facts of the case are that the State Government had issued 5 (five) work orders, all dated 10.04.2015, to the respondent No. 1 construction firm to execute the construction work of the approach road, detail of which has

already been mentioned in the impugned order. Pursuant to the said work orders, the respondent No. 1 executed the work within the time granted to it. However, no payment for the said work has been made to the respondent No. 1. Being aggrieved, the respondent No. 1 approached the writ Court by filing the writ petition and the writ Court, after hearing the parties, has passed the impugned order.

We have heard the learned counsel appearing for the parties and have also gone through the impugned judgment and order.

The learned Single Judge has taken into consideration that the State of Nagaland had issued the work order to the respondent No. 1 construction firm and it has executed the said work successfully. It is also taken into consideration by the learned Single Judge that the State Government has expressed its inability to pay the amount due to the respondent No. 1 for execution of the construction work, indicating that the construction work was allotted under a scheme of the Central Government. However, later on the Central Government, vide order dated 04.08.2015, has decided to drop/stop funding all the schemes/projects approved up to 31.03.2014.

The learned Single Judge has also taken into consideration the stand of the Central Government counsel and has opined that from the work orders issued in favour of the respondent No. 1 it is not reflected that the said work orders were issued in pursuance to implementation of any Central Government scheme and, therefore, the State Government is liable to make payment to the respondent No. 1 for the work which has been successfully executed by it.

Learned counsel for the appellant has tried to emphasize that, as a matter of fact, the work which has been executed by the respondent No. 1 was under the Central Government Scheme only and not under any scheme of the State Government. It is also contended that as per the said Central Government scheme, 90% of the cost of the work is to be paid by the Central Government,

whereas the State Government is only liable to pay the remaining 10% of the cost of the work executed.

It is submitted by the learned counsel for the appellant that the State Government is ready to make payment of the 10% amount for which the State Government is liable and that direction may be issued to the Central Government to make payment of the remaining 90% of the amount.

Having heard the learned counsel appearing for the parties and after taking into consideration the overall facts and circumstances of the case, we are of the view that since the respondent No. 1 construction firm has successfully executed the work in question pursuant to the work order issued by the State of Nagaland, and since it is not the case of either the State Government or the Central Government that the work has not been executed by the respondent No. 1, the learned Single Judge has not committed any illegality in directing the State Government to make payment for the work executed by the respondent No. 1 within the stipulated time, while granting liberty to the State Government to pursue its remedies against the Central Government in respect of the amount, which the State Government has been directed to pay.

In such circumstances, we do not find any case for interference.

However, it is observed that if the State Government moves the Central Government for reimbursement of the amount which has been directed to pay to the respondent No. 1 by it, it is expected that the Central Government shall consider the request of the State Government objectively and expeditiously.

The time for making payment to the respondent No. 1 by the State Government is extended for three months from today with the condition that if the respondent State of Nagaland fails to make payment to the respondent No. 1, as directed herein above, it shall be liable to pay interest @ 7.5%, per annum, from the date of default, i.e. after expiry of the period of three months from today.

The writ appeal stands dismissed with the above observations and directions.

JUDGE

CHIEF JUSTICE

Comparing Assistant