

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.591 of 2025

M/S United Construction, represented by its sole proprietor- Sri Krishnendu Maity, Son of late Bankim Behari Maity, of Village- Vidyasagar, PO- Kakdwip, District- South 24 Pargana, West Bengal

.....Petitioner(s);

Versus

1. The State of Tripura represented by the Secretary to the Government of Tripura, Public Works Department (R&B), New Capital Complex, PO- Kunjaban, Agartala, West Tripura
2. Chief Engineer, Public Works Department (R&B), New Capital Complex, PO-Kunjaban, Agartala, West Tripura
3. Superintending Engineer, 4th Circle, Public Works Department (R&B), Mantribari Road, PO- Agartala, District- West Tripura
4. Executive Engineer, Government of Tripura, Sonamura Division, Public Works Department (R&B), PO- Sonamura, District- Sepahijala Tripura

.....Respondent(s)

For Petitioner(s) : Mr. Anirban Bhattacharjee, Advocate,
Mr. Haridas Datta, Advocate.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

26/02/2026

1. This Writ Petition is filed by the petitioner seeking damages for cancellation of a work allotted under a Letter of Acceptance (LOA) dt.06.12.2022 to the petitioner pursuant to an NIT dt.28.09.2022, which was cancelled on 12.01.2023.
2. The order of cancellation dt.12.01.2023, titled as a "Corrigendum" refers to the said decision having been taken in the 1st meeting of the Technical/Financial Bid Evaluation Committee.
3. The said corrigendum dt.12.01.2023 did not give any reason for the said cancellation.

4. Petitioner then filed WP(C) No.565/2023 challenging the same.

5. The Writ Petition was allowed on 22.05.2024. This Court held that a 'legally binding contract' had come into existence pursuant to a conscious decision of the competent authority, that the LOA and Letter for Commencement (LOC) of work had also been issued in favour of the petitioner, and once a 'legally binding contract' came into existence, the respondents could not have revoked it or cancelled it without proper notice. The corrigendum dt.12.01.2023 was quashed by the Division Bench, and liberty was given to the respondents to take a fresh decision in accordance with law after due opportunity to the petitioner to show cause within a reasonable time.

6. It is also not in dispute that on 11.05.2023, the work in question had already been allotted to another third party contractor, by name Sri Kanu Lal Saha.

7. This was admittedly done without issuing a fresh tender after cancellation of LOA given to petitioner on 12.01.2023 and even though the said Sri Kanu Lal Saha's financial bid was Rs.4,75,186/- more than that financial bid of the petitioner.

8. This fact was not apparently disclosed by the respondents in their pleadings in WP(C) 565/2023 and also not orally when the Writ was disposed of on 22.05.2024.

9. After the said decision was rendered, the 4th respondent issued a Show Cause Notice dt.28.06.2024 to the petitioner mentioning that as per DNIE condition, valid *copy of enlistment of appropriate class* registered with PWD/TTAADC/MES/CPWD/Railway/Government Organization of other

State and Central Government has to be submitted by petitioner along with tender, that the said document was not found with the tender documents, that this was indicated in the committee decision taken on 03.12.2022, that the 4th respondent's office had asked the petitioner to submit the shortfall document referred to supra by 25.01.2023, but petitioner submitted the same document dt.20.03.2013 which he had submitted along with the tender; and the petitioner should show cause why the LOA dt.06.12.2022 and LOC dt.21.12.2022, should not be cancelled.

10. Petitioner submitted a reply on 13.08.2024 to the same. In the said reply, he pointed out that he had uploaded through the e-procurement online system Trade Registration No.655 as FORM 11 along with other documents, as mentioned in the bid documents; that procedure for enlistment of contractor varies from one state to another state, and several procedures are adopted by other States for enlistment of contractors; as per a memorandum dt.19.11.2012 of the Finance Department of Government of West Bengal, there is a guideline for awarding tender/bid to the tenderer/bidder; that document dt.20.03.2013 shows that petitioner is a Class (I) (R&B) contractor; after submission of all those documents, the 4th respondent had admitted that the petitioner had fulfilled criteria required for accepting of tender; and so its tender was treated as eligible for the purpose of acceptance; and in consideration of the said eligibility, the 4th respondent had issued the LOA and the LOC of work.

It was also contended that there was a contractual relationship which had come into existence between the parties on account of issuance of

the LOA and the LOC, and the 4th respondent should withdraw the Show Cause Notice, and allow the petitioner to execute the work.

11. Thereafter on 19.11.2024, the 4th respondent passed a detailed order justifying cancellation of the LOA issued on 06.12.2022, and the LOC dt.21.12.2022.

In the said order, it was admitted that the LOA was issued by his office, but it was stated that the LOC, though issued in favour of the petitioner, was not circulated, and no worksite was handed over.

It was stated that in the meantime, the 4th respondent had received a decision of cancellation of the earlier decision of the 1st meeting of BEC dt.29.11.2022 communicated on 03.12.2022 stating that a valid copy of enlistment of appropriate class registered with PWD, etc. issued in favour of the petitioner, was not found in the tender document; therefore the cancellation order was passed on 12.01.2023; thereafter a Show Cause Notice was given on 28.06.2024, to which a reply was given on 13.08.2024 by the petitioner; but there was no satisfactory explanation on the part of the petitioner for non-submission of copy of valid enlistment by the petitioner, and cancellation for failure to annex the said enlistment certificate of the bidder, is justified .

12. Challenging the same and seeking other reliefs, this Writ Petition was filed by petitioner.

13. The petitioner averred that the episode of issuing the show cause notice was just a drama, that the official respondents had suppressed before this Court the fact of awarding the work to the Sri Kanu Lal Saha; that they have frustrated petitioner's vested right under the legally binding contract

fraudulently; and he should be compensated for the damage suffered @15% of contract value as per the Tripura Government's schedule of rates.

14. The petitioner's counsel submits that Annexure-R/1 dt.20.03.2013 was a letter from the Joint Secretary, PWD, Government of West Bengal to the Chief Engineer, PWD specifically stating about the enlistment of the petitioner as an enlisted Class-I (R&B) Contractor approved in the list of contractors. He contends that this itself is sufficient proof that the petitioner possesses the qualification of being a Class-I Contractor registered with the Government of West Bengal, that this document was given along with the other documents while submitting the tender by him, that this is also admitted by the respondents, and therefore the cancellation of the LOA issued to the petitioner on 06.12.2022 and the LOC dt. 21.12.2022, is illegal and arbitrary.

15. Counsel for the respondents refutes the said contentions, and states that only the copy of the enlistment document issued by the appropriate agency, should have been given as proof of such enlistment as a Class-I Contractor by the petitioner, and the letter dt.20.03.2013 written by the Joint Secretary, PWD, Government of West Bengal to the Chief Engineer, PWD cannot be treated as such evidence of enlisting of petitioner as Class-I (R&B) contractor.

Consideration by the Court

16. It is not denied by respondents that before the LOA dt.06.12.2022 was issued to the petitioner, there was a scrutiny of the tender submitted by the petitioner by the Tender Evaluation Committee appointed to scrutinize the tenders submitted pursuant to the NIT dt.28.09.2022.

17. Once the decision of acceptance of offer of petitioner was communicated to petitioner a concluded contract had come into existence between the petitioner and the official respondents. The Division Bench in its order dt.22.05.2024 in WP(C) No.565 of 2023 had already given such a finding, which has attained finality.

18. So the instant case is not a case of non-acceptance of tender of petitioner but one where, *after the tender was accepted* after scrutiny and LOA was issued on dt.06.12.2022 by which contract had come into existence (as held by the Division Bench of this Court in W.P.(C). No.565/2023), and the LOC dt.21.12.2022 was also circulated, *there is a cancellation of the same* on 12.01.2023 and the same was reiterated on 19.11.2024.

19. In ***Kisan Sahkari Chini Mills Limited and Others v. Vardan Linkers and Others***¹, it was held that where a contractual dispute has a public interest element, power of judicial review under Art.226 of the Constitution of India may be invoked. This was also reiterated in ***Rishi Kiran Logistics Private Limited v. Board of Trustees of Kandla Port Trust and Others***².

20. Admittedly the work for which the tender had been issued was strengthening the road from Mayarani to Bagma (upto Melaghar- Bislamgunj road) under Sonamura Assembly Constituency which was to be paid from public funds. Petitioner's financial bid was less than that of Sri Kanu Lal Sahu's financial bid and the State, had it continued the contract with petitioner, would have saved substantial sum of money of at least Rs.4,75,186/-. Moreover the factum of awarding the work to Sri Kanu Lal Sahu, that too without issuing a fresh tender, was admittedly suppressed by the

¹ (2008) 12 SCC 500, at page 510

² (2015) 13 SCC 233

official respondents from this Court in WP(C) No.565 of 2023. Thus undoubtedly there is public element involved not only because of the nature of work, but also because of the saving of money from public exchequer.

21. The condition which the respondents wanted the petitioner and other bidders to fulfil is that they should be Class-I (R&B) Contractors. This was to be established no doubt by submitting a valid copy of enlistment *of appropriate class* registered with PWD/ TTAADC/ MES/ CPWD/ Railway/ Government Organization of other State and Central Government.

22. Since the LOA dt.06.12.2022 had already been issued to the petitioner, it is presumed that the said committee of the respondents was satisfied that all conditions mentioned in the tender were fulfilled by petitioner including the condition that he is a Class I (R&B) Contractor on the basis of Annexure-R/1 dt.20.03.2013 submitted by the petitioner along with its tender.

23. It is not the case of the respondents that they doubted the correctness of Annexure-R/1 dt.20.03.2013 submitted by the petitioner, or they had written to the PWD of the Government of West Bengal, and ascertained that the petitioner was in fact not enlisted as a Class-I (R&B) Contractor by them.

24. In other words the respondents had no reason to doubt and indeed did not doubt the authenticity of Annexure-R/1 dt.20.03.2013 or the statement therein of the Joint Secretary, Public Works Department, State of West Bengal that petitioner was such an enlisted Class-I (R&B) contractor.

25. The question is whether non-submission of the copy of enlistment by petitioner alone can enable the respondents to cancel the LOA dt.06.12.2022 and the LOC dt.21.12.2022.

26. In other words is submission of valid copy of *enlistment of appropriate class* registered with PWD/ TTAADC/ MES/ CPWD/ Railway/ Government Organization of other State and Central Government, *the only way* in which his enlistment as Class-I (R&B) Contractor to be proved.

27. We think not. The proof of possessing such a qualification, could be proved by submitting (a) the actual enlistment copy or (b) a document such as letter dt.20.03.2013 [Annexure-R/1] of a High Government Official certifying that he possessed the said qualification.

28. Therefore the reason for cancelling the LOA and LOC given by the respondents is arbitrary, unreasonable and violative of Art.14 of the Constitution of India. The suppression of factum of award of work on 11.05.2023 to Sri Kanu Lal Sahu to this Court in WP(C) No.565 of 2023 also makes their conduct mala fide and fraudulent.

29. It is also startling to note that after the initial cancellation of the petitioner's tender on 12.01.2023, the contract was straightaway awarded to Sri Kanu Lal Saha on 11.05.2023 *without issuing any fresh tender*.

30. Admittedly to the NIT dt.28.09.2022, there were only two bids – one of the petitioner and one of Sri Kanu Lal Saha. The difference in the financial bids of the two bids is Rs.4,75,186/- i.e., the financial bid of petitioner was lower than the financial bid of Sri Kanu Lal Sahu.

31. Had the petitioner executed the contract, the State would have saved that much money, but by giving it to Sri Kanu Lal Saha *without issuing a fresh tender*, the State had to pay Rs.4,75,186/- more to him, which could not have been payable to the petitioner, and thus public interest has suffered.

This action is also arbitrary, unreasonable and violative of Art.14 of the Constitution of India.

32. We strongly deprecate this conduct on the part of the respondents Government in cancelling on frivolous grounds the LOA dt.06.12.2022 and LOC dt.21.12.2022 issued to petitioner, not issuing a fresh tender after such cancellation, and straightaway giving the work to Sri Kanu Lal Saha at a loss to the public exchequer of the said amount of Rs.4,75,186/-.

33. It looks that something untoward and not bonafide had happened behind the scenes which led to a change of mind on the part of the respondents in cancelling on 12.01.2023, the LOA issued to the petitioner on 06.12.2022, and straightaway awarding the work on 11.05.2023 to Sri Kanu Lal Saha.

34. In our opinion, the cancellation of the LOA dt.06.12.2022 issued to the petitioner by the respondents is not a *bona fide* act and appears to be to favour Sri Kanu Lal Saha by awarding him work at a loss to the public exchequer.

35. Therefore, we declare that the memorandum dt.19.11.2024 passed by the fourth respondent upholding the cancellation dt.12.01.2023 of the LOA dt.06.12.2022 given to the petitioner by the respondents, is arbitrary, illegal, unreasonable, and violative of Art.14 and 300A of the Constitution of India.

36. However since the work in question appears to have been already executed by Sri Kanu Lal Saha, it is not possible in this Writ Petition, to allow the petitioner to complete the work.

37. However liberty is given to the petitioner to approach the Civil Court and claim damages for wrongful cancellation of the LOA dt.06.12.2022 issued to him by proving the loss, if any, caused to him.

38. The respondents shall also pay cost of Rs.10,000/- to the petitioner within 8(eight) weeks.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



Pijush/

PIJUSH KANTI NAG Digitally signed by PIJUSH KANTI NAG
Date: 2026.03.03 15:41:00 +05'30'