

GAHC020001572025



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

Case No. : WP(C)/54/2025

RITE MERO

CLASS-1 GOVT. CONTRACTOR AND SUPPLIER HAVING OFFICE AT KOHIMA
NAGALAND, PIN-797001, WEING REPRESENTED BY RITE MERO, S/O SHRI
DIKHROLO MERO, R/O H.NO. 3, WARD 10, NAHARBARI EASST DIMAPUR,
DIMAPUR NAGALAND-797112

VERSUS

STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY, CHIEF SECRETARY OFFICE,
NAGALAND CIVIL SECRETARIAT, KOHIMA NAGALAND-797004 2:THE
COMMISSIONER AND SECRETARY
DEPT. OF HIGHER AND TECHNICAL EDUCATION
GOVT. OF NAGALAND
NEW SECRETARIAT
KOHIMA NAGALAND-797004

3:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT
CIVIL SECRETARIAT
NAGALAND-797004

4:THE DIRECTOR
DEPT. OF TECHNICAL EDUCATION
NEW SECRETARIAT
NAGALAND KOHIMA-797004

5:THE OFFICER ON SPECIAL DUTY
DEPT. OF TECHNICAL EDUCATION
NEW SECRETARIAT
NAGALAND KOHIMA-79700

Advocate for the Petitioner : Y.P. GUPTA, CHOPIKA SUMI

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR. JUSTICE UNNI KRISHNAN NAIR**

ORDER

Date : 27.11.2025

Heard Mr. Y. P. Gupta, learned counsel, appearing for the petitioner. Also heard Ms. S. Chang, learned Government Advocate, appearing for the respondent nos.1 & 3 as well as Mr. C. T. Jamir, learned Senior Counsel, assisted by Mr. Aliba Ozukum, learned counsel, for the respondent nos.2, 4 & 5.

2. The petitioner, by way of instituting the present proceeding, has prayed for a direction upon the respondent authorities to release to him his contractual dues amounting to Rs. 35,99,998/- (Rupees Thirty Five Lakhs Ninety Nine Thousand Nine Hundred Ninety Eight) only, in pursuance to the supplies effected by him, in connection with the supply order dated 14-10-2019, issued to him by the Director of Technical Education, Government of Nagaland, along with due interest, thereon.

3. The petitioner, herein, has projected in the writ petition that the Directorate of Technical Education, Nagaland, had issued to him a supply order dated 14-10-2019, for effecting supply of the items listed in the Annexure thereto, for the establishment of Director of Technical Education and Polytechnics, during the year 2019-2020, under funds to be received under the Corporate Social Responsibility (CSR) Scheme. The said supply order was subject to the terms and conditions set out, therein. The petitioner further projects that he had, in pursuance to the said supply order dated 14-10-2019, within the stipulated period, supplied all the items, as

involved in the supply order, and the same were accepted after checking and verifying its quality and quantity, by the concerned authority. He further projects that the supplied materials were installed, in the establishment of the Directorate of Technical Education and Polytechnics, and no complaint in this connection was raised.

Poised thus, the petitioner received a communication dated 23-01-2020, from the Directorate of Technical Education, Nagaland, wherein, he was informed that on an inspection of the items supplied by him, 2 (two) items were found to be defective/incomplete without accessories and the petitioner was called upon to rectify the defects failing which, it was stipulated in the said communication dated 23-01-2020, that it would lead to a deduction of an amount of Rs.21,85,618/- (Rupees Twenty One Lakhs Eighty Five Thousand Six Hundred Eighteen) only, from the bills of the petitioner. The petitioner also projects to have rectified the defects pointed out in the said communication dated 23.01.2020.

The petitioner further projects that, a Completion Certificate dated 11-03-2020, was issued by the Director of Technical Education, Nagaland, wherein, it was certified that the petitioner had successfully completed and installed, all the items involved in the supply order dated 14-10-2019, amounting to Rs.35,99,998/- (Rupees Thirty Five Lakhs Ninety Nine Thousand Nine Hundred Ninety Eight) only, against CSR, Scheme, for the session 2019-2020. It is projected by the petitioner that the completion certificate would lay to rest the fact that the petitioner had effected the supplies involved in terms of the supply order, complete in all respect.

The petitioner, had approached the authorities, for release

of his contractual dues against the supplies made by him, in pursuance to the supply order dated 14-10-2019, however, the amounts not being cleared to the petitioner, he had then issued a legal notice to the concerned authorities.

It is projected that, on receipt of the said legal notice, the Director of Technical Education, vide communication dated 29-11-2024, had, *inter alia*, contended that, the funds under the CSR, Scheme, was not received by the Directorate, till the date of issuance of the communication, and the Department was rigorously pursuing to clear the bills from the State funds, however, it was stipulated, therein, that even if the funds are made available, the dues of the petitioner would be cleared, only with the condition that, the items supplied, found to be defective, are rectified. It is under the said circumstances, the petitioner has approached this Court, by way of instituting the present writ petition, praying for the reliefs as noticed hereinabove.

4. I have heard the learned counsel for the parties and also perused the materials available on record.

5. The learned counsel for the parties, having made their submissions, in the live of the pleadings brought on record, same is not reiterated, herein.

6. The petitioner, in support of his claim for being released with his contractual dues, has relied upon the Completion Certificate dated 11-03-2020, issued by the Director of Technical Education, Nagaland, wherein, it was contended that the petitioner had successfully completed and installed all the items involved in the supply order dated 14-10-2019. It is seen that the petitioner was earlier issued with a communication dated 23-01-2020, wherein, defects found on inspection with regard to 2 (two)

items of supply made by him, in pursuance to the supply order dated 14-10-2019, was highlighted.

The items which were detected to be defective, being relevant, is extracted hereinbelow;

“1. Desk & Benches were found to be short of 8.4 cm in length.

2. Smart Interactive Digital Board were found to be incomplete in accessories. Mounting, Software CD and 1 GB were not found.”

7. The position with regard to the items supplied by the petitioner being defective is also apparent from the communication dated 29-11-2024, issued by the Director of Technical Education, Nagaland. The communication dated 29-11-2024 being relevant, is extracted hereinbelow;

“TO

**Yogendra Prasad Gupta
Advocate, AT-Millennium Market Complex
FF-S Old Daily Market, Dimapur: Nagaland**

Sub: Status of Materials Supplied by Shri. Rite Mero under CSR during 2020

Sir,

The undersigned is constraint to bring to your kind knowledge in regard to materials supplied by y client Shri Rite Mero to Directorate of Technical Education and Government Polytechnic Kohima under during the year 2020.

When the request letter for payment was received by this office on 21 January 2020, 2 (two) office were deputed to inspect the supplied items in the presence of Principal. However, during inspection per major items were found defective for which your client was reminded through proper channel to replace by giving a period of 30 days during 2020 and another period of 20 days was given during Oct. 2024 for same. However, there was no responds from him nor the

defective items were replaced/rectified till date.

The said project was initiated by the then Hon'ble Minister for Higher & Technical Education, Shri Temjen Imna Along and on his advice the Supply Order was issued to Shri Rite Mero in which it is clearly mentioned that the payment will be done as and when fund is made available under CSR. In spite of the legal notice was served to this office by the supplier.

The Department also made several efforts to get fund under CSR through the concerned Minister many consultation with Hon'ble Minister to explore ways and means to resolve the matter so as to clear pending bill. But the fund could not be made available till date from CSR.

This office was of the view to settle the matter amicably with your client at the earliest and call him several times to come for discussion. However, the matter could not be resolve from your client. Though your client himself had fixed the date to meet on 7th Oct. 2024, he did not turn up. Even the communication through phone and letter were not responded by him.

At the same time, the Department has been rigorously pursuing to clear the bill from the State. Even if the fund is made available, the bill shall be cleared only with the condition that the defective/s supply items are rectify/corrected.

In view of the above, the Department is compel to inform your esteemed office on the status of materials supplied by your client under CSR and the stand of the Department on the unsettled/pending till date."

8. A perusal of the said communication would go to reveal that the petitioner, on being informed by the Office of the Director of Technical Education, Nagaland, of 2 (two) items being found to be defective, was not replaced/rectified by the petitioner till the date of issuance of the communication. The said communication further projects that the project involved was initiated by the then Minister for Higher and Technical Education, Nagaland, and it was on his advice that the supply order was issued to the petitioner,

herein.

It was further highlighted in the said communication that the payment would be released to the petitioner as and when the fund is made available under CSR, Scheme. It is further projected in the said communication that the department had made several efforts to get the fund under CSR, Scheme, through the concerned Minister, however, the funds could not be made available till the date of issuance of the communication from the CSR, Scheme.

Accordingly, it was further highlighted in the said communication that the Department was rigorously pursuing the matter for clearing the bills of the petitioner from the state funds. However, even if the funds are made available, the amount involved would be released only with the condition that the defective items are rectified/corrected.

9. The respondents have filed an affidavit in the matter and therein also it was contended that the petitioner had not rectified the defective items as noticed hereinabove.

With regard to the contention of the petitioner that the supplies made by him were so made in terms of the supply order and was found to be complete in all respects being evident from the Completion Certificate dated 11-03-2020, the respondents in the affidavit so filed in the matter in paragraph 7 had raised the following contention.

“7. That with regard to the statement made in paragraph 6 of the petition the deponent partly admits and denies to the extent that the said completion certificate dated 11-03-2020 was issued only in favour of the then Hon'ble Minister for Technical Education on his Insistence to facilitate the release of funds from the company/agency through CSR, and as such,

completion certificate was not issued in favour of the Petitioner to validate on its successful completion, a completion certificate is typically issued after all works is completed according to the contract, but the issuance of the certificate does not mean the contract is free from dispute. In the instant case, the completion certificate was issued without the other party having completed their obligations, as such there is a clear breach of contract committed by the petitioner. It is also pertinent to mention that, no prudent man will make such blatant mistake only to cause hurdle. The authority had already notified regarding the defective items vide Order dated 23/01/2020 which is still unattended by the petitioner. Therefore, the issuance of completion certificate by the authority to the petitioner is not attainable."

10. A perusal of the statement made in paragraph 7 of the affidavit would go to reveal that the completion certificate was issued only on the insistence of the then Minister of Technical Education, Nagaland, for facilitating the release of funds from the company/agency through CSR, Scheme, and the completion certificate was not issued in favour of the petitioner to validate successful completion of the work involved. It is further clarified in the paragraph that the completion certificate was issued without the petitioner fulfilling his obligation and accordingly, it was highlighted that there was a clear breach of the contract committed by the petitioner.

The respondents in the affidavit have further highlighted that the petitioner in spite of being required to rectify the defects in the items in the affidavit, he had not rectified the same and accordingly, the defective items supplied were lying unused in the Directorate of Technical Education, Nagaland.

11. The stand as taken by the respondents in the matter would go to reveal that the petitioner was not issued with the supply

order in pursuance to a process of tender, but on the insistence of the then Minister of Higher and Technical Education, Government of Nagaland. It is further brought on record that the amount involved towards the supply of the items involved in the supply order dated 14-10-2019, was to be released to the petitioner from the CSR, Scheme, funds that was to be procured for the Directorate by the Departmental Minister, which funds, however were never received.

12. The petitioner in the present proceedings in support of his contention, that the supplies involved were effected by him by complying with the terms and conditions incorporated in the supply order, complete in all respect, had relied upon the Completion Certificate dated 11-03-2020. However, the respondents in the affidavit filed had disputed the said Completion Certificate dated 11-03-2020 by contending that the same was not so issued to envisage the successful completion and installation of the items involved in the supply order dated 14-10-2019, but was so issued to facilitate receipt of the funds from the Company/Agency under the CSR, Scheme. The said stands taken by the respondents in the matter along with the photographs of the defective items brought on record vide the affidavit, this Court finds the said stand to be a probable one, in the facts and circumstances involved in the present proceedings.

13. In view of the above discussion, the respondents having not admitted the contractual dues receivable by the petitioner, herein, this Court would not be in a position to issue a direction upon the respondents to release to the petitioner the contractual dues claimed by him. Further, the rival contentions of the parties to the proceedings having raised disputed questions of facts, the same would not be permissible for this Court to be resolved

basing upon the affidavits filed by the parties. Accordingly, this Court is of the considered view that the claim raised by the petitioner in the present proceedings would not mandate a consideration by this Court.

14. Having drawn the above conclusions, this Court also is conscious of the fact that the petitioner cannot be left without a remedy. Considering the nature of dispute arising in the present proceedings, this Court is of the considered view that it is permissible for the petitioner to institute appropriate proceedings before the competent Court of Civil Jurisdiction. Accordingly, liberty is granted to the petitioner to institute appropriate proceedings before the competent Court of Civil Jurisdiction for establishing the fact that he is entitled to receive the contractual dues, involved in the present proceedings.

15. In the event, the petitioner institutes such proceedings before the Civil Court of competent jurisdiction, the Court shall adjudicate upon the claim made by the petitioner before it, basing on the evidences that would come on record in the proceedings, and shall not be swayed by the observations made in the present order.

16. Subject to the liberty granted to the petitioner to approach the Civil Court of competent jurisdiction, the present Writ Petition stands dismissed. However, there would be no order as to costs.

Sd/-

JUDGE

Comparing Assistant