Form No. J (2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

MAT 158 of 2025
IA NO: CAN/1/2025
CAN/2/2025
The Secretary M.E. Department, M.E Directorate & Ors.
vs.
G.B.C Infrastructure Pvt. Ltd. & Anr.
With
F.M.A.227 of 2025
IA NO: CAN/1/2025
The Secretary M.E. Department, M.E. Directorate & Ors.
Vs.
G.B.C Infrastructure Pvt. Ltd. & Ors.

For the Appellants	:	Mr. Jahar Lal De, Ld. A.G.P. Mr. Bipin Ghosh, Advocate
For the Respondent No.1	:	Mr. Saptangshu Basu, Senior Advocate Mr. Debdatta Sen, Senior Advocate Mrs. Suchishmita Ghosh Chatterjee, Adv. Mrs. Ledia Dasgupta, Advocate
For the Balurghat Municipality	:	Mr. Srijan Nayak, Advocate Mrs. Rituparna Maitra, Advocate
For the proforma Respondent No.3	:	Mr. Saibal Acharyya, Advocate Mr. Sankar Halder, Advoate
Heard on	:	18.02.2025
Judgment on	:	18.02.2025

DEBANGSU BASAK, J.:-

1. Two appeals are taken up for analogous hearing, as they involve similar issues between the same parties. The two appeals are directed against two orders passed in the same writ petition.

2. Learned advocate-on-record for the appellants is granted leave to rectify defect as pointed out by the department in MAT 158 of 2025.

3. MAT 158 of 2025 is directed against the order dated December 3, 2024 passed in WPA 24506 of 2022.

4. FMA 227 of 2025 is directed against the order dated December 19, 2024 passed in WPA 24506 of 2022.

5. Department reports a delay of 28 days so far as MAT 158 of 2025 is concerned.

6. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient and the delay of 28 days in making and preferring the appeal is condoned.

7. CAN/1/2025 filed in MAT 158 of 2025 for condonation of delay is allowed.

8. By consent of the parties, both the appeals are taken up for final hearing.

9. Learned Additional Government Pleader appearing for the appellants submits that, the learned Single Judge did not take into account the affidavit filed on behalf of the appellants while deciding the issues involved in the writ petition. He submits that, there are just and bona fide counter

claims and/or defence to the claim made by the writ petitioner. He draws the attention of the Court to the claims made in the writ petition and the defence with regard thereto.

10. Writ petitioner and the Municipalities are represented.

11. Three Municipalities floated tenders in which, the writ petitioner participated. Writ petitioner being the successful tenderer in respect of all those three tenders were awarded work in respect thereof. Writ petitioner executed two work under the work orders and submitted bills with the concerned Municipalities. Part payments were made.

12. The three Municipalities unanimously submit before us that, there is no dispute with regard to the quality or the quantity of the work done by the writ petitioner in respect of the three tenders. They are not shying away from the liability of making payment of the bills of the writ petitioner.

13. It is the contention of the appellants before us that, the terms and conditions of the contract at least, the direction of the learned Single Judge, requires the appellants to certify the bill amounts. According to the appellants, the bill amounts are not payable for the reasons as enumerated in an affidavit which was sought to be filed before the learned Single Judge. Learned Single Judge erred in not taking cognizance of such affidavit and the defence of the appellants.

14. As noted above, three tenders were executed by the writ petitioner in respect of three Municipalities. The disputes sought to be raised by the appellant in respect of those three tenders are as follows:

Sl No	Name of Project	Admitted Bill Amount	Released/ Paid Amount	Deducted/ Withheld i.e (admitted due Amount)	Remarks
1	**Krishnanagar Intake Jetty**				
a	3rd & 4th R.A Bill	106370000	87190518	19179482	Amount deducted due to sluice Valve (28 nos) not used and pipe line not laying through low lying areas
b	Supplementary Bill for extra Pipe line work	30462506	-------------	30462506	This is not supplementary work. It is within the scope of work as per bid & agreement. There is no provision of extra claim due to turnkey project.
2	**Ranaghat O & M Work**				
a	1st+2nd+3rd R.A Bill	12480000	10763270	1711730	Bill amount derived and paid as per actual consumption of Alum & Chlorine as per Bid & agreement.
b	4th R.A Bill	4160000	-------------	4160000	Bill already paid amount to Rs.3880281.00 on 23.02.2023 by the Chairman Ranaghat Municipality based on actual consumption of Alum & Chlorine
c	Supplementary Bill for supply of Chlorine & Alum for 1st three Years.	3870670	-------------	3870670	Does not arise as supply of Alum & Chlorine for 1st three years included in Original bill
3	**Balurghat**		---------------		
i	Intake Jetty	--------------	---------------	--------------	
a	Security Release Bill	12419550	9607950	2811600	Geotechnical investigation was not done by the agency, though it was within the scope of the 'turnkey project'. A committee was formed by the Secretary, MED to resolve the issue of

					pending 'final bill'. As par recommendation of the committee, the agency was instructed to get the "stability of as-built structure" vetted from any reputed institute preferably by IIT.
Total				**62195988**	

15. We find that, the writ petition contains all relevant bills in respect of which the claims were made by the writ petitioner before the Writ Court. Those bills bear the requisite certification of the appropriate authorities certifying that such bills are due and payable. None of the parties before us contend that the bills of the writ petitioner were not received by the Municipalities or do not bear the requisite certification.

16. Significantly, in respect of, the Krishnanagar Intake Jetty, substantial portion of the bill was paid with, a portion being retained. Supplementary bill was sought to be disputed on the ground of that it was not additional work. In respect of the 1^{st} to the 4^{th} R.A bill for Ranaghat, the bill is sought to be reduced on the basis of consumption. Municipality is billed for the supply and needs to pay for the quantum of supply received and not the portion consumed. Nothing is placed on record to substantiate that the supplementary bill for Ranaghat includes supplies forming part of the earlier bills. Balurghat bill denial is based on a prerequisite to undertake the construction which was fulfilled.

17. The relevant Municipality is acknowledging that those works were done. Relevant Municipality are not raising any dispute with regard to the nature and quality of the work done. Relevant Municipality are acknowledging the bills to be due and payable.

18. The Municipalities are separate legal entities. Liability to pay is that of the Municipality. The claim is directed against the concerned Municipality.

19. No right of the appellants stands affected by any of the two impugned orders.

20. In such circumstances, we find no merit in the claim of the appellants to dispute the bills on the so-called grounds.

21. It is pointed out in the course of hearing of the appeals that further payments were made in respect of certain bills which are shown in the chart as noted above.

22. Concerned Municipalities will therefore, proceed to make payment of the amounts due to the appellants after deducting the payments already made in respect of the bills.

23. Payments be made by the authorities within seven days from date. In default, the amount due will carry interest at the rate of 18% per annum from the date of the respective bills until payment. Such rate of interest is awarded taking into consideration the fact that the transactions involved are commercial in nature and that nationalized banks charge interest at rates not less than 18% per annum in respect of commercial transactions.

24. In the event, any of the authorities are required to pay interest, then the interest component will come out of the employees who are responsible for the delay in payment of the bills. In the event, no employees could be identified who is responsible for the delay in payment of the bills, then the such component will come out the salary of the Commissioner of the relevant Municipalities.

25. MAT 158 of 2025 and FMA 227 of 2025 along with connected application are disposed of.

(Debangsu Basak, J.)

26. I agree.

(Md. Shabbar Rashidi, J.)

CHC