

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 4149 of 2023

Anmol Feeds Private Limited & Anr.

Versus

Directorate of Fisheries, West Bengal & Ors.

Mr. Sagar Bandhopadhyay, Sr. Adv.

Mr. Soumava Mukherjee

Ms. Rishita Sarkar

.....For the petitioners.

Mr. Sirsanya Bandhopadhyay, Sr. S.C.

Ms. Deboleena Ghosh

Ms. Sukla Das Chanda

.....For State.

Hearing Concluded On : 10.11.2025

Judgment on : 27.11.2025

Krishna Rao, J.:

1. The petitioners have filed the present writ application praying for direction upon the respondents to disburse an amount of Rs.

1,66,78,107/- along with interest at the rate of 18% per annum against the supplies made by the petitioners with respect to the three work orders.

- 2.** The respondent no.1 has published Notice Inviting Tenders for supply of fish feed under different schemes. The petitioner no.1 has participated in the said tender process and the petitioner no.1 was selected as successful bidder and issued four work orders in favour of the petitioner no. 1. The petitioner no.1 has successfully supplied fish feed in terms of three work orders issued to the petitioner no.1 with respect to Moyna Model dated 12th February, 2019, Jal Dharo Jal Bharo dated 26th February, 2019 and Small Water Body dated 26th February, 2019. The petitioner no.1 has not received any demand and requisition with respect to the fourth work order dated 30th January, 2019.
- 3.** After supply of fish feed in terms of three work orders, the petitioners time to time requested the respondent no. 1 for release of payments but the respondents have neither made the payment nor have sent any reply to the petitioners. The petitioner no.1 has submitted an application under the Right to Information Act, 2005 for seeking certain information from the respondents and on receipt of the application, the Special Information Officer, Directorate of Fisheries, provided reply to the petitioner's RTI application under Right to Information Act, 2005. On perusal of the said information, it was found that the petitioners had duly and satisfactorily supplied fish feed to the respondents and

requisite laboratory tests were carried out by the respondents and found that the fish feed supplied by the petitioners conformed to the specification stipulated in the tenders and work orders.

4. Mr. Sagar Bandhopadhyay, Learned Senior Advocate, representing the petitioners, submits that the information received from the respondents under the Right to Information Act, it was found that a Committee was constituted by the respondent no. 1, comprising of the Secretary, Director and Financial Advisor of the respondent no.1, and had recommended for disbursement of payments to the petitioners in terms of the work orders.
5. Mr. Bandhopadhyay submits that the petitioner no. 1 has supplied the total fish feed amounting to Rs. 3,75,18,486/- but the respondents have paid only Rs. 2,08,40,379/- and have not paid the balance amount of Rs. 1,66,78,107/-. He submits that the petitioners have made several requests to the respondents for payment of the balance outstanding dues but the respondents have not paid the balance amount till date.
6. The petitioners in support of their case, have relied upon the judgment in the case of ***M.P. Power Management Company Ltd., Jabalpur Vs. SKY Power Southeast Solar India Private Limited and Others*** reported in ***(2023) 2 SCC 703*** and submits that in the present case, the State is the respondent and the petitioners are claiming the amount on the basis of the admitted document.

7. Mr. Sirsanya Bandhopadhyay, Learned Senior Standing Counsel representing the State submits that during the supply of feed, samples were collected from the different districts in the presence of the representatives of the petitioners and the same were sent to the Government approved testing center for test. On receipt of test report, it was found that quality in some cases did not tally with the specifications as mentioned in the Work Order.
8. Mr. Bandhopadhyay submits that as per the Work Order, the total quantity of fish feed is to be supplied by the petitioners was 3360600 Kg. but as per report, the petitioners have supplied only 1033135 Kg. He submits that the petitioner no. 1 has submitted bills total amounting to Rs. 3,40,96,939/- out of which an amount of Rs. 1,94,49,407/- is paid to the petitioners.
9. Mr. Bandhopadhyay submits that the Department of Fisheries has formed a Departmental Review Committee (DRC) consisting of three Officers for consideration of release of balance payment to the agencies in terms and conditions of the work orders. The Committee found that as per the test report received from the Government approved testing centers, the quality of the fish feed is not in accordance with the specifications as mentioned in the work orders, thus it is not possible for the respondent no.1 to release the payment as claimed by the petitioners.

10. Heard the Learned Counsel for the respective parties, perused the materials on record. There is no dispute with regard to issuance of work orders upon the petitioners for supply of fish feed. The dispute which the respondents have raised that some of the fish feed supplied by the petitioners, are not as per the specifications mentioned in the work orders.
11. The petitioners have mainly relied upon the Committee formed by the Fisheries Department, consisting of three Officers, namely, Commissioner of Fisheries Department, Director of Fisheries Department and Financial Advisor of Fisheries Department for payment of the dues to the agencies as per the work order but no payment of dues is paid to the petitioners.
12. In every work order, size, specifications and quantity are mentioned. Two conditions of the work orders, which are necessary for this case reads as follows:

- *The implementing Authority or his/her representative (s) reserves the right to reject any fish feed found to be inferior quality. The fish feed rejected by the implementing Authority or his representative (s) shall be replaced by the supplier in his own costs on the date fixed by the Implementing Authority.*
- *The assessment of quality control of fish feed will be as follows:*

Authorized representatives of the Director of Fisheries will collect samples at random from the fish feed supplied at the delivery points of concerned district/ districts, get these sealed and signed by representatives of the Director of Fisheries and the representatives of the supplier

and send the same to the government approved testing centers. Payment will be made against supply of fish feed only if the test result of the samples conform to the specification.

13. The respondents have disclosed the documents with regard to the information about sampling and analysis of the fish feed supplied by the petitioners under the different schemes and test reports of the Government approved testing centers, which shows that some of the quantities are not within the conformity of the specifications provided in the work orders.
14. The respondents have also disclosed the decision of the Department Review committee which reads as follows:

**“Report of the Departmental Review
Committee regarding supply of low quality
fish feed”**

Pursuant to the Order No. 1020-Fish/C-III/2M-85/2019 dated 15.06.2020, of the Principal Secretary, Fisheries Department, members of the Departmental Review Committee (DRC) deliberated at length on the recommendations of the technical committee as submitted by the Director, Fisheries vide No. 44/PLG-2/2019 dated 11.02.2020 of the DE.

It was observed by members of the DRC that the technical committee concluded that “the supply of feed being of poor quality would definitely hamper the overall fish production” and that “lower percentage of protein, lipid and fiber content in the supplied feed, would not provide adequate nutrient to the fish resulting in lesser fish production”. In spite of this, members of the technical committee recommend deduction of 25% of the total amount of the bill”.

Members of the DRC observed that this recommendation suffered from two gross infirmities:

a) A uniform deduction of 25% of total amount of bill for all types of supplied feed irrespective of the quantum of deviation from the stipulated specifications was too simplistic

b) The fact that fish feed was consumed prior to obtaining test result (resulting in inability of the consumer to return the faulty consignment the reason cited by the technical committee for imposing deduction of 25% of bill value) cannot absolve suppliers of their bounden und absolute liability to supply fish feed conforming exactly to the specifications noted in the tender documents and this "breach of contract" (as observed by members of the technical committee) cannot be allowed to be let off with only a 25% deduction in payment

Members of the DRC further observed that there was nothing in the exact guidelines of Finance Department to making part payment for supplying items not as per specifications noted in tender documents.

Members of the DRC then examined in detail relevant tender documents, agreement executed between the Director, Fisheries and the suppliers and the supply orders issued to various agencies for supply of fish feed. It was observed that the Director, Fisheries had issued a very unequivocal and categorical instruction to the effect that payment will be made against supply of fish feed only if the quality of feed, after being tested at recognized Govt testing centres, be found to conform to specifications. The members of the DRC unanimously observed that this condition, being absolutely binding on the suppliers, leaves no scope for release of payment in case the feed be found not conforming to the specifications

As such, it was unanimously resolved that the committee would recommend for releasing no payment for supply of feed which have been found to be not conforming to the specifications noted in

the tender documents, i.e. irrespective of quantum of deviation, no payment should be made for feed supplied which, on testing at Govt. approved testing centres, were found to have protein/ lipid content below the specifications noted in the tender documents.

Submitted to the Principal Secretary, Fisheries Department for favour of kind perusal and taking necessary action.

Sri Santanu Saha. Commissioner in Fisheries Department.....

Smt. Esha Sengupta, Director, Fisheries, West Bengal.....

Sri Bijoy Kunar Das, Financial Advisor, Fisheries Department.....”

15. The petitioners have not challenged the sample analysis report, testing report, as well as the decision of the Department Review Committee. The Committee, after considering all the documents, that is, tender documents, agreement executed between the parties, the work orders and testing report, come to the conclusion that irrespective of quantum of deviation, no payment should be made for the fish feed supplied, which, on testing at Government approved testing centers, were found to have protein/lipid content below the specifications noted in the tender documents.
16. As per the testing report, the quality of some of the fish feed did not conformed with the specifications mentioned in the work orders and the Department Review Committee has also come to a finding that the terms and conditions mentioned in the work order are binding on the supplier. As per the terms and conditions of work order, it is

categorically mentioned that “*payment will be made against supply of fish feed only if the test results of the samples conform to the specification*”. Thus, this Court did not find any illegality on the part of the respondents for not releasing the balance outstanding dues as claimed by the petitioners.

17. WPA No. 4149 of 2023 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)