

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 5038 of 2025

**GEM Engineers' Co-operative Society Limited
-versus
The State of West Bengal & Ors.**

**Mr. Partha Sarathi Das,
Ms. Shanta Sarkar,
Mr. Rhitam Chatterjee.
...For the Petitioner.**

**Mr. Malay Krishna De,
Mr. Syed Masihar Rahaman.
...For the State.**

1. Affidavit of service filed in Court today is taken on record.

2. The payment of the petitioner could not be made allegedly because of non-sanctioning of fund from the fund sanctioning authority.

3. It appears that the petitioner performed certain work for which payment is due and payable. The Executive Engineer of the Krishnagar Division, Social Sector, Public Works Directorate has intimated the learned advocate representing the petitioner by a communication dated 14th January, 2025 that as soon as the fund will be available, balance payment may be made.

4. Learned advocate appearing on behalf of the State respondents submits that because of non-availability of fund, payment could not be made.

5. Submission of the State respondents for withholding the payment of the petitioner due to non-availability of fund cannot be accepted by the Court.

6. As the petitioner was duty bound to perform the work in terms of the contract and the petitioner did perform the work as per the contract, accordingly, the subject authority for whom the petitioner performed the work would be bound to make payment.

7. The respondent no. 2 is directed to take necessary steps to ensure that payment of the petitioner is not held back for non-availability of fund.

8. All payment of the petitioner shall positively be cleared within a period of twelve weeks from the date of communication of this order.

9. The writ petition stands disposed of.

10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)