

Form No.J(2)
Serial No.33
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**Present :
The Hon'ble Justice Aniruddha Roy**

WPA 1746 OF 2025

Amjad Hossain

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Debayan Goswami, Adv.
Ms. Debadrita Maitra, Adv.

For the Respondents/
State : Mr. Hirak Barman, Adv.
Mr. Sourav Sarkar, Adv.

For the Respondent
No. 9/Municipality : Mr. Satarudriya Mukherjee, Adv.
Ms. Tannu Agarwal, Adv.

Heard on : September 3, 2025

Judgment on : September 3, 2025

Aniruddha Roy, J. :

1. The petitioner states that, arising out of a tender process a Work Order was issued dated **September 26, 2018** in favour of the petitioner for carrying out certain civil construction work. The entire work has been completed by the petitioner to the satisfaction of the concerned

municipality as would be evident from the **Work Completion Certificates** dated **September 2, 2019, at page 24** to the writ petition and the last one is **May 6, 2022, at page 39** to the writ petition. No objection or demur was raised as against the work done by the petitioner by the concerned municipality. The petitioner has raised his running bills and a **part payment** for a sum of **Rs.22,48,000/-** has been made to the petitioner in *pro tanto* satisfaction of the claim of the petitioner as would be evident from **page 39** to the writ petition. The petitioner claims the **balance amount** of **Rs.22,90,039/-**.

2. Learned Advocate Mr. Satarudriya Mukherjee appearing for the concerned municipality has drawn attention of this Court to the various requests dated **March 2, 2020** at **page 54** to the writ petition, **August 22, 2023 at page 51** to the writ petition and the last one **January 10, 2025 at page 49** to the writ petition made before the respondent no.3 for release of fund so that the **entire balance** claimed by the petitioner can be paid off as the concerned municipality is satisfied with the work completely done by the petitioner arising out of the said Work Order. The office of the respondent no.4 has also issued an acknowledgement in this regard dated **August 23, 2023** at **page 52** to the writ petition.
3. Learned Advocate Mr. Hirak Barman, appearing for the State submits that, funds are not sanctioned project-wise but in bulk against a particular municipality. Since further Government approval has not been received, fund could not be released. He submits that it is the

responsibility of the municipality to make the payment, as the work order was issued by it.

4. After considering the rival contentions of the parties and upon perusal of the materials on record, the series of events stated above, would show the admission of jural relationship between the concerned municipality and the petitioner to the effect that, the concerned municipality has issued the tender and the Work Order in favour of the petitioner and the petitioner has completed the work without any objection raised by the concerned municipality. Thus, the entire work has been admitted to have been executed to the satisfaction of the concerned municipality without any objection.
5. When the tender was floated and the Work Order was issued and the work has been done successfully, it is the legal obligation on the part of the concerned municipality to pay the entire billed amount to the petitioner. More so, when the **part payment** has been made in **2018**, it shows the admission and acknowledgement of liability towards the petitioner. At this juncture, neither the State nor the concerned municipality can deny release of the **balance payment** which is otherwise an admitted sum. The requests made by the municipality to the respondent no.3 to release payment further show an admission of liability towards the petitioner against the work done by it.

6. In the facts of this case, since **admitted** sum is due and payable to the petitioner, such sum is the property of the petitioner and withholding it without due process of law is a clear **violation of the right** of the petitioner guaranteed under Constitution.
7. When an Article 12 authority fails to discharge its obligations and duties, in the manner stated above and thereby the right of a party is infringed, this Constitutional Court in exercise of its jurisdiction under Article 226 of the Constitution of India has plenary power to direct such Article 12 authority to discharge its obligations and duties to prevent the infringement of right of the party.
8. In view of the above, the **balance sum** of **Rs.22,90,039/-** along with interest @**6%** per annum **since** the first letter of request dated **March 2, 2020** at **page 54** to the writ petition **till** the date of tendering payment shall have to be paid to the petitioner.
9. In view of the above, the following directions are made :
 - i) In the event, it is the responsibility of the respondent nos. 3 and 4 to release the fund in favour of the municipality for making necessary payment in favour of the petitioner, as directed above in the facts of this case, then the respondent nos. 3 and 4 shall release the said fund to the extent of **Rs.22,90,039/-** along with interest @**6% per annum** as directed above, in

favour of the respondent no.9/the relevant municipal corporation positively within **four weeks** from the date of communication of this order;

- ii) In the event, the respondent nos. 3 and 4 are of the opinion that it is not their responsibility to release the fund in favour of the concerned municipality then, they shall inform the same with reasons in writing to the concerned municipality and the petitioner positively within a period of **two weeks** from the date of communication of this order;
- iii) In the event, the fund, as directed above, is released by the respondent nos. 3 and 4 as directed above in favour of the concerned municipality then, the concerned municipality/respondent no.9 shall forthwith pay the petitioner the said sum by crediting the bank account of the petitioner positively within a period of **two weeks** from date of receiving the fund from the respondent nos. 3 and 4;
- iv) In the event, the respondent nos. 3 and 4 are of the opinion that is the not their responsibility to

release the fund and it is the sole responsibility of the municipality to pay the petitioner, then the concerned municipality/respondent no.9 shall pay the entire amount with interest, as directed above, to the petitioner positively within a period of **four weeks** by crediting the bank account of the petitioner from the date of receiving the communication from the respondent nos. 3 and 4.

10. These directions are mandatory and peremptory.

11. Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

12. With the above observations and directions this writ petition, **WPA 1746 of 2025** stands **disposed of**, without any order as to costs.

13. The parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)