GAHC010010272025

2026:GAU-AS:16047

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

Case No. : WP(C)/281/2025

MUSLIM ALI
S/O LATE MAKBUL ALI
R/O SUNDARBARI
P.S. JALUKBARI, GUWAHATI-781014
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT.OF ASSAM, PUBLIC WORKS DEPARTMENT (ROADS), DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT. OF ASSAM

PUBLIC WORKS DEPARTMENT (ROADS) DISPUR
GUWAHATI-781006

3:THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT (BORDER ROADS)
ASSAM
CHANDMARI
GUWAHATI-781003.

4:THE EXECUTIVE ENGINEER

BARPETA
MANDIA AND CHENGA TERRITORIAL ROAD DIVISION
BARPETA
ASSAM

PIN-781301.
(ERSTWHILE BARPETA- BAGHBAR-CHENGA TERRITORIAL ROAD DIVISION
BARPETA)

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. D. Das, Sr. Advocate
: Mr. P. Sarma, Advocate

For the Respondent(s) : Mr. B. Gogoi, Addl. AG, Assam
: Mr. M. Bhuyan, Advocate

- Date on which Judgment was reserved : NA
- Date of Pronouncement of Judgment : **02.11.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : NA

JUDGMENT AND ORDER (ORAL)

Heard Mr. D. Das, the learned Senior counsel assisted by Mr. P. Sarma, the learned counsel appearing on behalf of the Petitioner and Mr. B. Gogoi, the learned Additional Advocate General who is also the Standing counsel of the PWD appears on behalf of the Respondent Nos. 1 to 4.

2. The present writ petition has been filed challenging the Letter of Termination dated 17.12.2024 whereby the contract for construction and maintenance of rural roads under Pradhan Mantri

Gram Sadak Yojana 2018-19, Batch-I in Barpeta District having Package No. AS-01-211 was terminated.

3. The record reveals that initially the Petitioner was awarded a contract for construction of the road from L-138 Pachim Chaysimana to Baladmari via Rahmania MEM including CD works and routine maintenance for 5 years, Package No. AS-01-211, for the contract price of Rs.17,24,37,355/- (Construction Rs.16,21,65,355/- + for Maintenance Rs.1,02,72,000/-) and the Letter of Acceptance was issued on 08.03.2019.

4. Subsequent thereto, a contract agreement was entered into on 13.06.2019 wherein the period of completion was mentioned as 12 months. The Petitioner had certain difficulties to carry out the work on account of access not being provided. Further to that, on 31.08.2022, the contract work was modified. As the contract could not be completed, the Respondents in the PWD terminated the contract vide an order dated 17.12.2024, assigning the reason that the Petitioner had committed fundamental breach of contract. The termination of the contract was made at the risk and cost of the Petitioner. The said Letter of Termination dated 17.12.2024 is challenged in the present proceedings by filing the present writ petition on 18.01.2025.

5. The learned Coordinate Bench of this Court vide an order

dated 24.01.2025 issued notice with an observation that the prayer for interim order would be considered on the next date. Subsequent thereto, on 17.03.2025, there was a direction passed that no coercive steps shall be taken against the Petitioner.

6. The records further reveal that on 17.09.2025 when the matter was listed before this Court, the interim order was modified and directions were issued that the Respondent Authorities shall not impose any risk and cost upon the Petitioner till the finalization of the present dispute. The interim order thereupon has been extended from time to time.

7. It is also relevant to take note of that, in the meantime, one M/S R.B. Associate was granted the remaining work at a total consideration of Rs.6,82,85,250/- and this is evident from the notice to proceed with the work dated 21.03.2025 issued by the Chief Engineer, PWD, (Border Roads).

8. It is also seen from the progress report as on 16.06.2026 that the road work was supposed to be completed by the end of July, 2026 and the bridge work is expected to be completed by November, 2026.

9. In the backdrop of the above, let this Court now take note of the reliefs which were sought for by the Petitioner.

10. The Petitioner has sought for a direction for setting aside and quashing the Letter of Termination dated 17.12.2024 and further a direction upon the Respondent Authorities to allow the Petitioner to complete the remaining work.

11. Taking into account the notice to proceed with the work had already been issued in favour of M/S R.B. Associate as well as the progress report dated 16.06.2026 shows that the road work would be completed by July, 2026 and the bridge work would be completed by November, 2026, the relief sought for by the Petitioner to be granted an opportunity to carry out the balance work cannot be granted. The only relief which is required to be considered is as to whether this Court in exercise of the powers under Article 226 of the Constitution, should interfere with the Letter of Termination dated 17.12.2024.

12. From the materials on record, it transpires that the contract initially was awarded on 13.06.2019 and the period of completion was 12 months. Admittedly, the contract work could not be completed within the period. The Petitioner alleges that on account of non-performance of reciprocal obligation by the Respondents which the Respondents deny and for reason beyond the control, the Petitioner could not complete the work. The records further reveal that on 31.08.2022, a modified contract agreement was

entered into whereby certain works which were to be carried out were modified.

13. The question arises amidst the factual scenario as to whether this Court, under Article 226 of the Constitution should entertain the present dispute inasmuch as, on one hand, the Petitioner alleges that on account of the non-performance of the reciprocal obligations by the Respondents coupled with reasons beyond the control, the Petitioner could not carry out the work within the period stipulated and on the other hand, the Respondents contended that they have carried out their reciprocal obligations including payment of all dues to the Petitioner and in spite of that, the Petitioner failed to complete the work, which was a fundamental breach to the terms of the agreement.

14. These allegations and counter allegations are essential questions of facts which this Court, under Article 226 of the Constitution cannot entertain inasmuch as, the same have been proved by oral and documentary evidence. The forum wherein such dispute can be resolved is a forum where such evidence can be led.

15. Considering the above, this Court is therefore not inclined to entertain the instant writ petition insofar as the challenge to the Letter of Termination dated 17.12.2024 is concerned.

16. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) This Court in view of the reasons assigned in the body of the judgment is not inclined to entertain the instant writ petition for which the writ petition stands dismissed.

(ii) The dismissal of the instant writ petition shall not prejudice the Petitioner to challenge the Letter of Termination dated 17.12.2024, if so advised and the period during which the present proceedings have been pending, i.e. with effect from 18.01.2025 till date, be excluded while computing the period of limitation.

(iii) This Court further observes that if the Petitioner initiates any proceedings in future challenging the Letter of Termination dated 17.12.2024, the dismissal of the instant writ petition shall not prejudice the Petitioner's rights in such proceedings.

(iv) Interim order passed earlier stands vacated.

JUDGE

Bijoy Saha
Digitally signed by Bijoy Saha
Date: 2026.11.04 10:31:48 +05'30'

Comparing Assistant