

GAHC030002582024



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

Case No. : WP(C)/32/2024

Smt. Lalrovi
R/o Hunthar Veng, Aizawl, Mizoram. (Class-I Registered Contractor under Reg. No.
68/E-in-C-1/2022

VERSUS

The State of Mizoram r/b the Chief Secretary to the Govt. of Mizoram and 4 Ors.
Aizawl, Mizoram

2:The Principal Secretary to the Govt. of Mizoram
Finance Dept.
Aizawl
Mizoram

3:The Secretary to the Govt. of Mizoram
Public Works Dept.
Aizawl
Mizoram

4:The Engineer-in-Chief
Public Works Dept.
Aizawl
Mizoram

5:The Chief Engineer (Roads)
PWD
Aizawl
Mizoram

Advocate for the Petitioner : Mr C Lalramzauva Sr. Adv.

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 - 5

ORDER

B E F O R E

HON'BLE MR. JUSTICE NELSON SAILO

25.04.2024

Heard Mr. C Lalramzauva, learned Senior Counsel assisted by Mr. L Lalnunsiam, learned counsel for the petitioner. By filing this writ petition, the petitioner has challenged the Office Memorandum dated 15.02.2024 (Annexure-9) and the Order dated 27.03.2021 insofar as, she is concerned.

The projected case of the petitioner is that she responded to the Tender Notice issued by the Office of the Superintending Engineer, PWD, Eastern Circle for the construction of Hruaikawn to Zokhawthar Road (8.00 Kms) for the tender amount of Rs. 6,73,08,107.00 (*Rupees six crore seventy-three lakhs eight thousand one hundred seven*) only, which is to be completed within 12 months. The petitioner was selected for the said work and a Letter of Acceptance was issued to her on 04.10.2023 and a notice to proceed with work on 05.10.2023. The petitioner was also signed an agreement with the authority concerned on 05.10.2023 and thereafter, the petitioner proceeded to execute the work.

The case of the petitioner is that the respondent authorities in the Finance Department have subsequently come up with an Office Memorandum dated 15.02.2024 (Annexure-9) with certain instructions for implementation of Works

under Part-I of Special Assistance to States for Capital Investment, (SASCI), 2023-2024. As per the Office Memorandum, the fund to be received under SASCI amounts to Rs. 500 crore for various projects and schemes, and the Govt. of India, as a 1st Installment has released 53% of the approved amount. Since after receipt of the 1st Installment, the Model Code of Conduct (MCC) of the General Election to the Mizoram Legislative Assembly, 2023 had been enforced. Apprehending that there will be no certainty on the receipt of the next installment, all the SASCI Implementing Departments has been advised to re-examine the approved project under Part-I and to identify, prioritize and select the works from the list of the approved projects that may be implemented completely within the received/reduced amount which comes to approximately 51.88% of their total project cost for each implementing department.

Pursuant to the Office Memorandum dated 15.02.2024, the Government of Mizoram in the Public Works Department had issued the impugned Order dated 27.03.2024 by which, the administrative approval accorded for the work being undertaken by the petitioner at Rs. 7 crores or 700 lakhs has received the expenditure sanction under the concurrence of I.D No. 902 dated 06.10.2023 at Rs. 372 lakhs only resulting into the revised estimate of the work to be executed at Rs. 210 lakhs. Mr. C Lalramzauva, learned Senior Counsel submits that the impugned action of the State respondents, after finalization of the award of the contract and execution of the agreement is illegal and in gross violation of the Fundamental Rights of the writ petitioner. As such, the impugned Office Memorandum and the impugned order should be set aside.

In view of above, issue notice of motion returnable by 4 (four) weeks. Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General accepts notice of all the respondents. Requisite extra copies of the writ petition be furnished to him, if

not already done.

Issue notice on the interim prayer made by the writ petitioner as well, making it returnable by 4 (four) weeks.

List the matter again after 4 (four) weeks.

JUDGE

Comparing Assistant