
(2021) 07 GAU CK 0065

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 4457 Of 2020

M/S Uday Distributors And Anr

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 14-07-2021

Acts Referred:

Citation : (2021) 07 GAU CK 0065

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : U K Nair

Judgement

1. The Court proceedings have been conducted through online court proceeding services.

2. Heard Mr. U.K. Nair, learned Senior Counsel for the petitioner assisted by Mr. R. Sinha, learned counsel for the petitioners; Mr. U. Sharma,

learned Standing Counsel, Secondary Education Department for respondent nos. 1-6 and Mr. R. Borpujari, learned Standing Counsel, Finance

Department for respondent no. 7.

3. From the contents of the writ petition and the affidavit-in-opposition filed on behalf of respondent nos. 1-6, the following facts have emerged :

3.1. A Notice Inviting Tender dated 02.07.2013 was issued by the Director of Madrassa Education, Assam for supply of games and sports items to

various madrassas in Assam. The petitioner no. 1 firm of which the petitioner no. 2 is the sole proprietor (hereinafter referred to as the petitioner),

participated in the said competitive bidding process and had emerged as the lowest valid bidder (L-1). The petitioner was, thereafter, awarded a work

order dated 14.11.2013 for supply of the items mentioned therein. In the work

order, the rates and quantities of the items to be supplied were specified. On 04.12.2013, the Director of Madrassa Education, Assam furnished a list of 74 nos. of provincialised Madrassa institutions where the petitioner was to deliver the games and sports items. As per the affidavit filed by Director of Secondary Education, Assam, an amount of Rs. 1,48,00,000/- was sanctioned under the TFC award vide Sanction Order dated 06.03.2010 of the Government for distribution of games and sports items to 74 nos. of provincialised Madrassa institutions.

3.2. In the first phase, the petitioner had completed distribution of games and sports items to 30 nos. of Madrassa institutions, out of the aforesaid 74 nos. of Madrassa institutions and submitted a bill for an amount of Rs. 60,22,700/- along with the relevant records. After completing the necessary procedure and verification in respect of the bills submitted by the petitioner, the Director of Madrassa Education, Assam paid an amount of Rs. 60,22,700/- to the petitioner on 18.03.2015.

3.3. In the second phase, the petitioner completed delivery of games and sports items to the remaining 44 nos. of Madrassa institutions. After delivery of the items, the petitioner submitted a final bill amount of Rs. 84,68,296/- on 10.09.2015. The receipt of the said bill was duly acknowledged by the Director of Madrassa Education, Assam.

3.4. The Director of Secondary Education, Assam in the affidavit filed on behalf of respondent nos. 1-6 has stated that the bill amount of Rs. 84,68,296/- could not be paid to the petitioner as the current account of Director of Madrassa Education, Assam had been closed. It has been further stated that the Government took a decision to merge the Directorate of Madrassa Education, Assam with the Directorate of Secondary Education, Assam w.e.f. 01.07.2017.

3.5. At the time of closure of the current account of Directorate of Madrassa Education, Assam, there was a balance of Rs. 28,48,56,381/- in the said account. After the closure of the account, the said amount was deposited in the Government Exchequer on 14.09.2015. As per the said affidavit, the final bill amount of the petitioner amounting to Rs. 84,68,296/- was also included within the amount of Rs. 28,48,56,381/-. In the above view of the matter, the respondent nos. 1-6 has averred that the outstanding bill amount of Rs. 28,48,56,381/- could not be released in favour of the petitioner.

3.6. The said affidavit was filed on 08.04.2021. In the said affidavit, it has been averred that a proposal has been made to submit a proposal to the

Government for the purpose for making necessary budget provision in the next financial year for release of the pending amount of the petitioner.

4. It has, thus, emerged from the above that the dues of the petitioner have not been released till date despite his completing the contract work as far back as in the year 2014.

5. Mr. Sharma, learned Standing Counsel, Secondary Education and Mr. Borpujari, learned Standing Counsel, Finance Department shall, in

consultation with both the departments, take instruction as to how the pending dues of the petitioner can be paid at the earliest.

6. List the case on 02.08.2021 to enable both of them to place the instruction before the Court.