

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 55 of 2021

Date of Order: 19.02.2021

Patel Engineering Limited

Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice Ranjit More, Judge.

Appearance:

For the Petitioner/Appellant(s) : Dr. N.Mozika, Sr. Adv. with
Mr. M.L.Nongpiur, Adv.

For the Respondent(s) : Mr. N.D.Chullai, AAG with
Mr. A.Kharwanlang, GA for R 1.
Ms. I.Kharlukhi, Adv. vice
Mr. S.Dey, Adv. for R 2-4.

1. Heard.

2. The petitioner is a company incorporated under the Companies Act, 1956 having its registered office at Mumbai. The petitioner-company is an engineering and construction company and is primarily engaged in the business of construction works for various government departments including MeECL and MePGC.

3. The petitioner was granted work order by Meghalaya Power Generation Corporation Limited for Civil and Hydro-Mechanical Works for construction of Ganol SHP (3x7.5MW) in West Garo Hills District, Meghalaya. The total cost of the work is ₹ 168,10,39,600 (Rupees One Hundred Sixty Eight Crore Ten Lakh Thirty Nine Thousand Six hundred) only. In terms of the Garo Hills District (Trading by Non-Tribals) Regulation, 1957, the petitioner being a non-tribal is required to obtain Trading License from respondent No. 2 every year. Work order was given to the petitioner for the said work on 14th January, 2014 and thereafter, petitioner obtained Trading License from

respondent No. 2 every year from 2014 to 2020. The petitioner under the relevant rules was required to pay ₹ 10,000/- (Rupees Ten Thousand) only every year as License fee.

4. The Secretary of respondent No. 2 issued the notification dated 1st July, 2020, under which it is made clear that respondent No. 2 was pleased to implement the provisions of the Tenth Amendment Bill of TNT Regulation, 2020 and enhanced the rates of various trades w.e.f. 01-06-2020. Along with the notification, a chart is also annexed. Under the said chart, so far as the Autonomous Construction companies are concerned, the License fee was increased from ₹ 10,000/- (Rupees Ten Thousand) only per year to 1% of the project cost.

5. It is the case of the petitioner that when they approached respondent No. 2 for renewal of License for the year 2020, they were asked to pay an amount of ₹ 1,68,10,396/- (Rupees One Crore Sixty Eight Lakh Ten Thousand Three Hundred Ninety Six) only being 1% of the project cost. The petitioner being aggrieved, has approached this Court.

6. I have heard Dr. N.Mozika, learned Sr. counsel for the petitioner and Mr. N.D.Chullai, learned AAG for the respondent No. 1. Ms. I. Kharlukhi, learned counsel submits that Mr. S.Dey, learned counsel appearing for the respondents No. 2, 3 & 4 is on sanctioned leave and she requests for an adjournment. Request is opposed by Dr. N.Mozika, learned Sr. counsel for the petitioner on the ground that work of the petitioner is hampered.

7. The said notification is challenged on the grounds inter alia that respondents No. 2, 3 & 4 has not complied with the provision of Paragraph 10 of the Sixth Schedule to the Constitution. Dr. N.Mozika, learned Sr. counsel also submits that in any case, the notification dated 1st July, 2020 cannot be made applicable to the petitioner-company retrospectively.

8. I prima facie find merit in the submission of Dr. N.Mosika, learned Sr. counsel for the petitioner. However, since Mr. S.Dey, learned counsel for the respondents No. 2, 3 & 4 is not available for argument today, hearing of this petition is adjourned to 09-03-2021. Till returnable date, by way of ad interim relief to the petitioner, respondents No. 2, 3 & 4 are directed not to obstruct/interfere with the petitioner's work for carrying out the Civil and

Hydro-Mechanical Works for construction of Ganol SHP (3x7.5MW) in West Garo Hills District, Meghalaya, on the ground that petitioner is required to deposit License fee as per the new Regulation dated 1st July, 2020.

9. List accordingly.

Judge

Meghalaya
19.02.2021
"Samantha PS"

