

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 5302 OF 2020

**STATE OF ARUNACHAL PRADESH
AND ORS.**

...PETITIONER(S)

VERSUS

M/S WANGHAM ASSOCIATE KHANSA

...RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION (CIVIL) NO. 5303 OF 2020

SPECIAL LEAVE PETITION (CIVIL) NO. 5304 OF 2020

SPECIAL LEAVE PETITION (CIVIL) NO. 5305 OF 2020

ORDER

1. The present Special Leave Petitions challenge the common judgment and order dated 25th September, 2019, passed by the Itanagar Permanent Bench (Naharlagun) of the Gauhati High Court in a bunch of appeals and interlocutory applications, vide which the Division Bench of the High Court has dismissed the writ appeals and connected interlocutory applications preferred by the petitioners herein.

2. The writ petitioners, the respondents herein, before the High Court are contractors, who had carried out supply works of Food

Articles floated by the Food Corporation of India. In the contract, there was a clause of payment of Hills Transport Subsidy. Since the amount was not being paid to the Contractors, they had preferred writ petitions.

3. The learned single judge of the Itanagar Permanent Bench Naharlagun of the Gauhati High Court, relying on the earlier order dated 25th January, 2017, passed in Writ Petition (Civil) No.628 (AP) of 2016, disposed of the writ petitions vide the judgment and order dated 17th November, 2017 in terms of the directions issued in the said Writ Petition (Civil) No.628 (AP) of 2016. Vide judgment and order dated 25th January, 2017, passed in Writ Petition (Civil) No.628 (AP) of 2016, the learned single judge had directed the respondent authorities to take up the issue of payment of the pending bills of the petitioners therein, as per their claim. The learned single judge had also directed that if the Department did not have any appropriate reason for not making the payment, the required claims be paid to the petitioners therein, preferably within a period of 4 months from passing of the order. The learned single judge of the High Court further granted liberty to the Department that if the Department is of the view that there are certain financial constraints, the possibility to make the payment in 2 or 3 installments can also be explored.

4. While disposing of the appeals and interlocutory applications by

the impugned judgment and order, the Division Bench of the High Court found that the appeals were filed merely as a formality. It was found by the Division Bench of High Court that when the judgment and order dated 17th November, 2017 passed by the learned single judge is based on orders passed on identical facts and circumstances in earlier writ petitions which have attained finality and the parties in those writ petitions had already been granted relief, the State respondents could not deny the same to the writ petitioners. The Division Bench of the High Court also relied on the decision of the Cabinet Sub-Committee of the State in that regard.

5. During the pendency of the present Special Leave Petitions, applications came to be filed by the respondents herein (writ petitioners before the High Court) seeking prayer for directing the petitioners herein (i.e. the State) to pay by depositing in this Court the admitted claim amount along with interest at the rate of 12% per annum. The same is contested by the petitioners herein.

6. It is to be noted that Special Leave Petition (Civil) No.6538 of 2019 arose out of identical facts. Though it is contested by the learned counsel for the petitioners that the facts are not identical, the record would reveal that Special Leave Petition (Civil) No.6538 of 2019, so also the present Special Leave Petitions, arose out of identical facts.

7. It will be relevant to reproduce the order dated 17th December, 2021 passed by this Court in the said Special Leave Petition (Civil)

No.6538 of 2019, which is as under:

“Shri Tushar Mehta, learned Solicitor General appearing on behalf of the petitioners Shri P.S. Patwalia, learned senior counsel appearing on behalf of the respondent have jointly stated at the Bar that during the pendency of the present proceedings, there is an agreement between the parties under which the petitioners have agreed to make payment and even the respondent has also given up some claim. Shri Mehta, learned Solicitor General appearing on behalf of the petitioners has stated that whatever the amount due and payable under the agreement and as agreed between the parties shall be deposited with the Registry of this Court within a period of two weeks from today and on such deposit the same may be permitted to be withdrawn by the respondent. It is submitted that on payment of the amount due and payable under the agreement there shall not be any further claim against the petitioners by the respondent.

In view of the above, we dispose of the present Special Leave Petition by directing the petitioners to deposit the entire amount due and payable under the agreement and as agreed between the parties with the Registry of this Court within a period of two weeks from today. Thereafter, it will be open for the respondent to withdraw the same which shall be paid by the Registry by A/c Payee Cheque in favour of the respondent.

It goes without saying that on payment of the aforesaid amount due and payable under the agreement, there shall not be any further claim of the respondent against the petitioners.

Shri Mehta, learned Solicitor General has stated that the instruction to the aforesaid shall be placed in the present proceeding, which is

directed to be taken on record.

With this, the present Special Leave Petition stands disposed of.

Pending application(s), if any, shall stand disposed of”

8. It could thus be seen that in the order dated 17th December, 2021, passed by this Court, this Court recorded the statement made by the learned Solicitor General appearing on behalf of the petitioners and the learned Senior Counsel appearing on behalf of the respondents that during the pendency of the said proceedings, there was an agreement between the parties under which, the petitioners had agreed to make payment and the respondent had also given up some claim.

9. It can further be seen that the learned Solicitor General had further stated that whatever the amount due and payable under the agreement, as agreed by the parties was concerned, that would be deposited with the Registry of this Court within a period of two weeks from the said date and on such deposit, the same would be permitted to be withdrawn by the respondent.

10. It is further stated in the order that on payment of the amount due and payable under the agreement, there shall be no further claim against the petitioners by the respondent.

11. We find that when the respondents in the present cases are similarly situated with the respondent in Special Leave Petition (Civil)

No.6538 of 2019, they cannot be denied equal treatment.

12. The present Special Leave Petitions are therefore disposed of by directing the petitioners to deposit the admitted claim along with interest at the rate which has been paid to the respondent in Special Leave Petition (Civil) No.6538 of 2019. The interest would be for the period from the date on which the amount is due till present. The said amount shall be deposited in the Registry within a period of two weeks from today.

13. On such deposit, it will be open for the respondents to withdraw the same which shall be paid by the Registry by Account Payee Cheque in favour of the respondents.

14. It is further clarified that on such amount being deposited by the petitioners, there shall not be any claim against the petitioners on any account arising out of the said agreement.

15. Pending applications, including applications for orders/directions, shall stand disposed of in the above terms.

.....**J.**
[B.R. GAVAI]

.....**J.**
[HIMA KOHLI]

NEW DELHI
MAY 31, 2022

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.5302/2020

(Arising out of impugned final judgment and order dated 25-09-2019 in WA No. 11/2019 passed by the Gauhati High Court at Itanagar)

THE STATE OF ARUNACHAL PRADESH & ORS. Petitioner(s)

VERSUS

M/S WANGHAM ASSOCIATE, KHANSA Respondent(s)
(IA No. 11810/2022 - APPROPRIATE ORDERS/DIRECTIONS)

WITH

SLP(C) No. 5303/2020 (XIV)

(FOR

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 12081/2022

IA No. 12081/2022 - APPROPRIATE ORDERS/DIRECTIONS)

SLP(C) No. 5304/2020 (XIV)

(FOR

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 12097/2022

IA No. 12097/2022 - APPROPRIATE ORDERS/DIRECTIONS)

SLP(C) No. 5305/2020 (XIV)

IA No. 12087/2022 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 31-05-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Chandra Prakash, AOR

For Respondent(s) Mr. Debal Kumar Banerjee, Sr. Adv.
Mr. Ahanthem Henry, Adv.
Mr. Kumar Mihir, AOR
Mr. Vivek Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The present special leave petitions are disposed of in terms of the signed order.

Pending application (s), if any, also stands disposed of.

(ARUSHI SUNEJA)
SENIOR PERSONAL ASSISTANT

(RANJANA SHAILEY)
COURT MASTER (NSH)

(Signed order is placed on the file.)