



Government of Jammu & Kashmir (U.T.)
Public Works (R&B) Department
Civil Secretariat, J&K Jammu

Subject: Implementation of Judgment dated: 08-10-2021 passed in WP(C)No. 2198/2021 titled Rehmatullah Naik V/s UT of J&K & Ors.

Government Order No. 215-PW(R&B) of 2022
Dated: 01.07.2022

Whereas the "up-gradation of Chaknarwah link road in Km 7th (RD 0-1000) (L=1Km)" district Ramban was taken up under C&T (Macdamization) Programme in the year, 2016. Work has been put to tender vide e-NIT No.11 of 2017/3511-84 dated:09.06.2016 wherein Sh. Rehmatullah Naik has been declared successful bidder and work was allotted to him for an amount of Rs. 29.62 lakh against the advertised cost of Rs. 31.54 lakh by the Executive Engineer PW(R&B) Division Ramban vide allotment Order No. 5574-78 dated 14.07.2016. However, the total work executed has been to the tune of Rs. 69.65 lakh with excess of Rs. 40.03 lakh over and above allotted cost. Against the total work done claim, payment amounting to Rs. 48.92 lakh has already been made to the contractor.

Whereas, above liability is a part of larger work done claims on account of macdamization works executed during 2015-16 to 2017-18.

Whereas, vide Government Order No. 576-GAD of 2019 dated 11.05.2019 the Government constituted a Fact Finding Committee to look into irregularities in awarding and implementation of

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macadamization contract from 2010-18. The Committee submitted its report and recommendations to the Government. Major recommendations are as under:-

- a) Where Administrative Approval (AA) has been accorded, and tender documents confirmed availability of funds, as against demanded, and works have been carried out within the tendered cost, but liabilities have still not been paid, such claims can be met first after due fulfillment of formalities.
- b) Where AA has been accorded and funds availability has been indicated, but extra work has been carried out, work done claims can be met after procedural formalities have been completed upto 50% on certification of concerned Chief Engineers provided such extra works do not exceed 50%/any other reasonable limit of original cost/length.
- c) Where AA has not been accorded, but funds availability have been indicated as available/demanded in tender, AA can be accorded post facto after due verification and claims entertained up to 50% at this stage pending further verification.
- d) Where AA has not been accorded, nor tender has been issued, such claims need to be referred to Vigilance for inquiry against officials/officers associated with such works and further view may be taken only after receipt of inquiry report.

Whereas, Finance Department vide O.M No.FD-Coord/59/2019 dated.22.07.2020 has issued a road map for clearance of the liabilities of macadamization works executed between 2015-16 to 2018-19. One of the conditions in the said road map is that liabilities of only those works have to be paid which are verified by ACB.

Subsequently ACB has also submitted its report to General Administration Department along with the list of the works inspected by

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the organization. Based on the recommendation of ACB it has been decided by the Government that the works executed after tendering for which AA and Technical Sanction are available and extension of work is not beyond 10% of the Tendered cost has to be released by the Finance Department after receiving list of such verified works from PW(R&B) Department; and

Whereas, the petitioner Rehmatullah filed WP(C) No.2198/2021 before the Hon'ble High Court claiming balance amount and the Honorable High Court vide judgment dated 08-10-2021 directed the respondents to accord consideration to the claim of the petitioner as per his entitlement for release of admissible amount of Rs. 29.62 lakh (allotted cost).

Whereas, the case of the petitioner has been examined and considered as per the official record viz-a-viz the directions of the Hon'ble High Court dated 08-10-2021 which is summarized as under:

- i) Tendered work: Rs. 31.54 lakh
- ii) Allotted cost: Rs. 29.62 lakh
- iii) Claimed by contractor : Rs. 69.65 lakh.
- iv) Paid by Department Rs. 48.92 lakh.

It has been observed that, against the total work done claim, payment amounting to Rs. 48.92 lakh has already been made to the contractor which is beyond the admissible amount of Rs. 29.62 lakh(allotted cost). Extra claim cannot be considered which is in violation of General Financial Rules (GFR). Contractor with the connivance of officials have executed more than contracted work which is illegal. ACB has



recommended for initiation of Regular Departmental Action (RDA) against the Executive Engineer concerned for above violations.

Now therefore, the claim of petitioner, having being examined and considered, has been found without merit.

By Order Government of Jammu & Kashmir.

Sd/-
(Shailendra Kumar) IAS
Principal Secretary to Government

No: PWD-LIT/307/2021-05

Dated: 01.07.2022

Copy to the: -

1. Ld. Advocate General, J&K.
2. Joint Secretary (J&K Affairs), Ministry of Home Affairs, Government of India.
3. Chief Engineering, PW(R&B) Jammu.
4. OSD to Advisor(B) for information.
5. Private Secretary to Principal Secretary to Government, PW(R&B) Department for information.
6. Government Order file (w.2.s.c).


(Karan Singh)

Under Secretary to Government
01/07/22