

GAHC010003732021



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

Case No. : WP(C)/241/2021

PRAVEEN KUMAR GUPTA
S/O SRI RAGHUNATH PRASAD GUPTA, R/O VILL. TENGABASTI,
P.O.ITAKHOLA, P.S. SOOTEA, DIST. BISWANATH, ASSAM, PIN 784182

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECY., IRRIGATION DEPTT.,
DISPUR, P.O. SACHIBALAY, GUWAHATI, PIN 781006

2:THE COMMISSIONER AND SECY.
IRRIGATION DEPTT.
DISPUR
P.O. SACHIBALAY
GUWAHATI
PIN 781006

3:THE CHIEF ENGINEER
IRRIGATION DEPTT.
ASSAM
P.O. CHANDMARI
GUWAHATI
PIN 781003

4:THE DEPUTY CHIEF ENGINEER
IRRIGATION DEPTT.
ASSAM
P.O. CHANDMARI
GUWAHATI
PIN 781003

5:THE EXECUTIVE ENGINEER
ITAKHOLA DIVISION
IRRIGATION DEPTT.
ASSAM

P.O. ITAKHOLA
PIN 784182

6:THE ASSTT. EXECUTIVE ENGINEER
ITAKHOLA DIVISION
IRRIGATION DEPTT.
ASSAM, P.O. ITAKHOLA
DIST. BISWANATH, PIN 784182

7:THE COMMISSIONER AND SECY.
FINANCE DEPTT.
GOVT. OF ASSAM
DISPUR, GUWAHATI

Advocate for the Petitioner : MR. P P DAS

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

10-02-2023

Heard Mr. K. Sarma, learned counsel for the petitioner. Also heard Mr. N. Upadhyay, learned standing counsel, Irrigation Department appearing on behalf of respondent Nos. 1 to 6 and Mr. B. Gogoi, learned standing counsel, Finance Department, for respondent No. 7.

2. This writ petition is filed by the petitioner seeking direction from this Court for release of payments in respect of works executed by the petitioner under the Irrigation Department, Assam.

3. The Petitioner submits that he was verbally requested to undertake the work of removal of silt from the bed of D-3 Canal under Bor Dekorai Irrigation Project in the year 2016, by the respondent No. 5, Executive Engineer, Itakhola

Division, Irrigation Department, Assam, as there was unguent need to remove the same. No specific work order was issued.

4. The petitioner, thereafter, proceeded with the work as per verbal order of respondent No. 5, namely, the Executive Engineer.

5. After completion of the aforesaid work to the full satisfaction of the respondents, the respondent No. 6 issued a certificate in respect of the work done, on 27-07-2016 which is enclosed as Annexure-3 at page 15 to the writ petition.

6. According to the petitioner the outstanding bill to be paid by the respondent authorities in respect of the said work amounts to Rs.9,39,600/- (Rupees Nine Lakhs Thirty Nine Thousand and Six Hundred) only. Although assurances were given to the petitioner, the outstanding amount has not been released till date. Being aggrieved, the present writ petition has been filed seeking appropriate directions from this Court.

7. The learned counsel appearing for the Irrigation Department submits that he does not have instructions regarding the completion certificate issued by the respondent No. 6.

8. It is seen that several opportunities were granted by this Court on earlier dates to the counsel for the department for obtaining requisite instructions in the matter. However, no such instructions have been placed before this Court. In

the absence of any clear instructions regarding the Certificate dated 27-07-2016, issued by the respondent No. 6, *prima facie*, it will have to held that in terms of the said Certificate, the works were duly executed by the petitioner. And if that be so, if the Department had extracted work from the petitioner, then the amount payable to the petitioner should be released by the Department.

9. Having heard the learned counsels for the parties, this Court is of the view that the matter can be disposed of in terms of the directions contained in **Tamsher Ali and Ors Vs. State of Assam and Ors.**, reported in **2008 (4) GLT 1**, by directing the respondent authorities, more particularly, respondents No. 3, namely, the Chief Engineer, Irrigation Department, Government of Assam, to verify the claims of the petitioner and only if the claims are found to be genuine then the amount raised in the bills shall be released. While releasing such outstanding amounts, the Department will make necessary adjustments in respect of earlier amounts that might have been released.

10. The entire exercise of verification of the claims of the petitioner shall be completed within a period of 90 (Ninety) days from the date of receipt of the certified copy of this order

11. The writ petition is closed and disposed of in terms of the above.

JUDGE

Comparing Assistant