

GAHC010014002020



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

Case No. : WP(C)/411/2020

KAMAL DAS
SECRETARY, SUB COMMITTEE, S/O- SABHARAM DAS, R/O- WARD NO. 7,
MANGALDOI TOWN, DIST- DARRANG, ASSAM, PIN- 784125

VERSUS

CHAIRMAN, MANGALDOI MUNICIPAL BOARD AND 2 ORS
MANGALDOI MUNICIPAL BOARD, MANGALDOI, DIST- DARRANG,
ASSAM, PIN- 784125

2:THE EXECUTIVE OFFICER
MUNICIPAL BOARD
MANGALDOI
DIST- DARRANG
ASSAM
PIN- 784125

3:THE DEPUTY COMMISSIONER
MANGALDOI
DIST- DARRANG
ASSAM
PIN- 784125

4:DIRECTOR
MUNICIPAL ADMINISTRATION
DISPU

Advocate for the Petitioner : MR A PAUL

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 10-02-2023

Heard Mr. A. Paul, learned counsel for the petitioner and Ms. S. Sarma, learned Junior Government Advocate, Assam for the respondent nos. 2, 3 & 4.

2. This writ petition has been preferred by the petitioner seeking *inter alia* a direction to the respondent authorities, more particularly, the respondent Mangaldoi Municipal Board to disburse an amount of Rs. 3,00,000/-.

3. The petitioner was the Secretary of a Sub-Committee which was entrusted with the task to execute a Contract-Work viz. "Construction of remaining portion of brick drain along North side of Bishnu Mandir Path at Ward no. 7 of Mangaldoi Town" under IHSDP [Interest Fund] for the year : 2015-2016 [the Contract-Work, for short]. By an Office Order dated 14.02.2017 issued under the hand of the Chairman, Mangaldoi Municipal Board, the Sub-Committee for the Contract-Work was constituted with five nos. of members with the petitioner as its Secretary. As per the Office Order dated 14.02.2017, the amount sanctioned for the Contract-Work was Rs. 3,00,000/- and the time period for completion of the Contract-Work was shown 3 [three] months from the date of the Office Order. The Office Order was issued by the Chairman, Mangaldoi Municipal Board on behalf of a Construction Committee, which comprised of five members with the Chairman, Mangaldoi Municipal Board as its Chairman and the Executive Officer, Mangaldoi Municipal Board as its Secretary. According to the petitioner, the Sub-Committee started the Contract-Work on 14.02.2017 and completed the Contract-Work on 11.09.2017 and to that effect, the Chairman, Mangaldoi Municipal Board had issued a Certificate dated 16.10.2019 stating that the Contract-Work had been successfully completed in all respects to the satisfaction of the respondent Magaldoi Municipal Board.

4. When the said amount of Rs. 3,00,000/- had not been released by the respondent

Mangaldoi Municipal Board despite repeated approaches, the petitioner has preferred this writ petition with the prayer, indicated above.

5. An affidavit-in-opposition has been filed on behalf of the respondent no. 2 on 04.04.2022 wherein it is admitted that the petitioner had duly executed the Contract-Work as per the Office Order dated 14.02.2017 of the respondent Mangaldoi Municipal Board. It has been averred that due to some procedural difficulties, the respondent Municipal Board had to seek permission subsequently to make payment of the Contract-Work done by the Construction Sub-Committee in which the petitioner was the Secretary, from the amount accrued under the IHSDP Scheme which was kept in deposit in a bank account of the Municipal Board at a local bank. But the permission so sought for, was not approved by the concerned authority. It is further averred that the payment of the outstanding amount in respect of the Contract-Work executed by the Construction Sub-Committee would be placed before the new committee of the respondent Municipal Board. It has also been averred that the petitioner had not availed the alternative remedy available in the Assam Municipal Act.

6. Mr. Paul, learned counsel for the petitioner has submitted that in a similar writ petition, W.P.[C] no. 1222/2020, this Court after taking into consideration the fact of admission of liability by the respondent Mangaldoi Municipal Board, had directed, by an order dated 16.02.2022, the respondent Municipal Board authorities to disburse the admitted amount within a stipulated period of time.

7. Ms. Sarma, learned Junior Government Advocate, Assam representing the respondent nos. 2, 3 & 4 has submitted that the respondent Municipal Board is not in good financial position, at present, to disburse the sum of Rs. 3,00,000/-, though it is an admitted liability as per the affidavit-in-opposition submitted by the respondent no. 2.

8. The fact that the Contract-Work was awarded to the Sub-Committee wherein the petitioner was the Secretary, is an admitted position. The fact that the Contract-Work had been successfully executed by the Sub-Committee has also been admitted. Thus, it is evident that the amount of Rs. 3,00,000/- is an admitted liability. Therefore, the respondent

authorities in the Mangaldoi Municipal Board is duty bound to release the same to the petitioner in an expeditious manner. Considering all the fact situation obtaining in the case and taking note of the direction given by this Court earlier in the writ petition, W.P.[C] no. 1222/2020, this writ petition is disposed of with a direction that the respondent authorities in the Mangaldoi Municipal Board to release the sum of Rs. 3,00,000/- in 3 [three] installments within a maximum period of 1 [one] year from the date of submission of a certified copy of this order by the petitioner at the office of the Mangaldoi Municipal Board. It is observed that the respondent authorities in the Mangaldoi Municipal Board shall also make an endeavour to disburse an amount of Rs. 3,00,000/- within a shorter period of time, from the date of receipt of the certified copy of this order.

9. The writ petition stands disposed of in the above terms. No cost.

JUDGE

Comparing Assistant