

GAHC010014892023



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

Case No. : WP(C)/430/2023

SANTI SAHU
APPROVED CONTRACTOR, IWT DIVISION, SILCHAR- 3, W/O- CP SAHU,
VILL- GAGLACHERRA, P.O- JAPPIRBOND, P.S- LALA, DIST- HAILAKANDI,
ASSAM, PIN- 788160

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
INLAND WATER TRANSPOT DEPTT, DISPUR, GHY- 06

2:THE DIRECTOR
INLAND WATER TRANSPORT
ASSAM
ULUBARI
GHY- 07

3:THE EXECUTIVE ENGINEER
INLAND WATER TRANSPORT DIVISION
CENTRAL ROAD
CHANDMARI
CACHAR
SILCHAR
PIN- 78100

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : SC, IWT

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 09-08-2023

Heard Mr. A.M. Barbhuiya, learned counsel for the petitioner and Ms. M.D. Bora, learned Standing Counsel, Transport Department for all the respondents.

2. The petitioner is an approved Contractor/Supplier with the Directorate of Inland Water Transport, Assam. It is averred that the petitioner was awarded 14 [fourteen] nos. of work orders, as mentioned in paragraph 2 of the writ petition. The petitioner has claimed that all those 14 [fourteen] nos. of work orders were successfully executed and after execution of the work orders, final bills in relation to those work orders were duly submitted before the respondent authorities. The final bills amount in respect of those 14 [fourteen] nos. of work orders is Rs. 5,25,056/-. The petitioner has claimed that apart from those 14 [fourteen] nos. of work orders, the petitioner had executed another work for the respondent no. 3 during the year : 2007 – 2008 and a final bill of Rs. 1,20,142/- was submitted for disbursal in respect of the said work. When the said two amounts, that is, [i] Rs. 5,25,056/- in respect of 14 [fourteen] nos. of work orders, mentioned in paragraph 2 of the writ petition and [ii] Rs. 1,20,142/- in respect of the work order executed during the year : 2007 – 2008, were not disbursed despite repeated requests, the petitioner had to institute the instant writ petition seeking a direction to the respondent authorities to disburse the afore-mentioned two amounts.

3. Ms. Bora, learned Standing Counsel, Transport Department has referred to the statements and contentions made in the affidavit-in-opposition filed by the respondent no. 2 on 19.07.2023. It is contended that in so far as the final bills

amount of Rs. 5,25,056/- in respect of the 14 [fourteen] nos. of work orders is concerned, an amount of Rs. 46,716/- has already been released in favour of the petitioner, leaving an amount of Rs. 4,78,340/- as outstanding till date. It is averred that the said amount of Rs. 4,78,340/- could not be disbursed to the petitioner due to shortage of budget provision and follow up action would be taken in the next financial year for payment of the said amount, after proper verification of the bills. Ms. Bora has contended that in so far as the claim of the petitioner as regards Rs. 1,20,142/- in respect of execution of a work during the year : 2007 – 2008 pursuant to an work order is concerned, there is dispute as no work was found executed against a work order, as per the office records maintained by the respondents. Ms. Bora has, thus, submitted that in so far as the amount of Rs. 4,78,340/- is concerned, this writ petition can be disposed of with a direction to process the claim of the petitioner in the light of the principles enunciated in the Full Bench judgment of this Court, rendered on 29.09.2008 in Writ Appeal no. 484/2005 [Tamsher Ali & Ors. vs. State of Assam & Ors.], reported in 2008 [4] GLT 1 [FB] and similar other 194 writ petitions.

4. In response, Mr. Barbhuiya, learned counsel for the petitioner has submitted that the respondent authorities may be directed to take immediate steps to process and disburse the claim of the petitioner in respect of the amount of Rs. 4,78,340/- in terms of the principles laid down in Tamsher Ali [supra]. As regards the claim of Rs. 1,20,142/-, he has submitted that the petitioner would like to resort to alternative remedy in accordance with law.

5. In view of the above submissions made by the learned counsel for the parties, this writ petition is disposed of at the admission stage itself with a direction to the respondent no. 2 i.e. the Director, Inland Water Transport,

Assam to examine and verify the claim of the writ petitioner in respect of the 14 [fourteen] nos. of work orders with a claim of Rs. 4,78,340/-, within a period of 45 days from the date of receipt of a certified copy of this order and if after such examination and verification, the petitioner is found entitled to the amount of Rs. 4,78,340/- or any other amount, then the respondent authorities shall process the claim of the petitioner as regards disbursal of Rs. 4,78,340/- [Rupees Four Lakh Seventy Eight Thousand Three Hundred and Forty Only] or such other amount, found entitled, in accordance with law and in the light of the directions contained in Tamsher Ali [supra]. The petitioner after obtaining a certified copy of this order shall place the same before the respondent no. 2 i.e. the Director, Inland Water Transport, Assam for doing the needful from his end. In so far as the claim of the petitioner with regard to Rs. 1,20,142/- is concerned, the petitioner is at liberty to resort to appropriate remedy, as may be permissible under the law.

6. This order disposes of the writ petition.

JUDGE

Comparing Assistant