

GAHC010016272014



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

Case No. : WP(C)/5206/2014

ON THE DEATH OF PRADEEP KUMAR BHUYAN HIS LEGAL HEIRS MRS.
DEEPA DUTTA
W/O LT. PRADEEP KUMAR BHUYAN, R/O ARUNA APARTMENT,
SANTIPATH, R.G. BARUAH ROAD, GUWAHATI- 781024, DIST. KAMRUP
METRO, ASSAM.

1.1: DIKHITA BHUYAN
D/O LT. PRADEEP KUMAR BHUYAN
R/O ARUNA APARTMENT
SANTIPATH
R.G. BARUAH ROAD
GUWAHATI- 781024
DIST. KAMRUP METRO
ASSAM

VERSUS

STATE OF ASSAM and ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT.

2:THE CHIEF ENGINEER

PWD ROADS ASSAM
CHANDMARI
GUWAHATI- 781003.

3:THE ADDITIONAL CHIEF ENGINEER

PWD ASSAM
WEST ZONE
CHANDMARI
GUWAHATI- 781003.

4:THE ADDITIONAL CHIEF ENGINEER

PWD P
ASSAM
CHANDMARI
GUWAHATI- 781003.

5:THE EXECUTIVE ENGINEER

PWD ROADS ASSAM
GUWAHATI CITY DIVISION NO. II
GUWAHATI- 781021

Advocate for the Petitioner : MR.B D KONWAR

Advocate for the Respondent : SC, PWD

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 26-07-2023

Heard Mr. K.K. Deka, learned counsel for the petitioner and Ms. S. Sharma, learned Standing Counsel, PWD for all the respondents.

2. The petitioner was awarded a contract work, 'Improvement of Satgaon Kalyankuchi Road by C.C. Block Pavement including side drain and load bearing slab at its approaches of bye lanes [L=600.00M] in Kamrup [M] District under A.P. [General Areas] for 2013-14' [the Contract-Work', for short]. The Contract-Work was, however, rescinded by an order dated 17.07.2014 [Annexure-11]. As per the Final Settlement Account [Annexure-16], the petitioner completed works worth Rs. 36,72,614/- in respect of the Contract-Work. By an order dated 25.08.2014 [Annexure-15], the petitioner was imposed a penalty of Rs. 12,74,277/- @ 20% on the balance works worth Rs. 63,71,386/-. The said fact

is also recorded in the Final Settlement Account [Annexure-16]. The original petitioner had instituted the instant writ petition seeking disbursal of the amount entitled to him for the part of the Contract-Work he had executed till the same was rescinded on 17.07.2014 [Annexure-11].

3. A counter-affidavit on behalf of the respondent PWD authorities through the respondent no. 5 has been filed on 04.06.2019. In paragraph 5 of the said counter affidavit, the respondent no. 5 had dealt with the matter regarding balance payment in the following manner :

However even after lapse of 26 days from the date of issue of the final notice vide Annexure : 8 the contractor neither resumed the work nor taken up any kind of initiative to complete the work and overall progress of the work was 37% only. In view of the above, the work has been rescinded by the undersigned for the breach of fundamental Clauses of the Tender Agreement imposing penalties of Rs. 12,74,277.00 on the cost of balance work to be completed i.e. Rs. 63,26,686.00. Accordingly incomplete 2nd R/A (Final Bill) for Rs. 36,72,614.00 was prepared and submitted for necessary payment. Out of which payment for Rs. 32,44,493.00 was made to the contractor and the remaining balance of Rs. 4,28,121.00 is yet to be paid.

4. As the said counter affidavit was filed on 04.06.2019; the original writ petitioner has already expired on 06.10.2020; and the original writ petitioner is represented by his wife and daughter, this Court on 19.07.2023 asked Ms. Sharma, learned Standing Counsel, PWD to obtain specific information as to whether the balance amount of Rs. 4,28,121/- had been paid to the legal representative of the original writ petitioner in the meantime or not.

5. Ms. Sharma, learned Standing Counsel, PWD has submitted, on instruction, that the said balance amount of Rs. 4,28,121/- was not disbursed to the original

writ petitioner and after the death of the original writ petitioner, to the legal representatives of the original writ petitioner. Ms. Sharma has further submitted that a reasonable time period would be required to process, sanction and disburse the said amount.

6. Having considered the fact situation obtaining in the case, narrated above, and the submissions made by the learned Standing Counsel, PWD, this Court is of the considered view that a period of 6 [six] weeks would be a reasonable period for the respondent authorities in the Public Works Department to process, sanction and disburse the amount of Rs. 4,28,121/- to the legal representatives of the original writ petitioner. Accordingly, it is directed that the respondent authorities in the PWD, more particularly, the respondent no. 2 i.e. the Chief Engineer, PWD [Roads] Assam shall undertake and complete the process of sanction and disbursal of the amount of Rs. 4,28,121/- to the legal representatives of the original writ petitioner within a period of 6 [six] weeks from the date of receipt of a certified copy of this order at his office.

7. With the above direction, the writ petition is disposed of. No cost.

JUDGE

Comparing Assistant