

GAHC010026582017



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

Case No. : WP(C)/3522/2017

ANANDA DUTTA

S/O- LATE MUKUNDA DUTTA, R/O- VILL- DOLOGURI, P.O AND P.S-
MACHKHOWA, DIST- DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM and 5 ORS.

REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT OF ASSAM,
WATER RESOURCE DEPTT., DISPUR, GUWAHATI, ASSAM, PIN- 781006

2:THE CHIEF ENGINEER
WATER RESOURCE DEPPTT.
CHANDMARI
GUWAHATI
ASSAM
PIN- 781003

3:THE ADDITIONAL CHIEF ENGINEER
UPPER ASSAM ZONE
WATER RESOURCE DEPTT.
DIBRUGARH
ASSAM
PIN- 786001

4:THE SUPERINTENDING ENGINEER
DHEMAJI WATER RESOURCE CIRCLE
DHEMAJI
ASSAM
PIN- 787001

5:THE EXECUTIVE ENGINEER
DHEMAJI WATER RESOURCE DIVISION

DHEMAJI
ASSAM
PIN- 78700

Advocate for the Petitioner : MR.P K DAS

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 17-02-2023

Heard Mr. P.K. Das, learned counsel for the petitioners; Mr. B. Goswami, learned Additional Advocate General, Assam assisted by Mr. P. Kakoti, learned counsel for all the respondents.

2. The petitioner is a registered Contractor under the respondent Water Resources Department, Government of Assam. The petitioner was awarded a contract work viz. "Construction of land spun at 19th K.M. of B/dyko from Sissikalghar to Tekeliphuta near Matmaraph.I" ['the subject-work' for short]. The petitioner has claimed that he had successfully executed the subject-work to the satisfaction of the respondent authorities. The petitioner had submitted final bill for an amount of Rs. 4,00,000/- against the subject-work. When despite repeated approaches for disbursal of the said amount the respondent authorities had not taken any discernible action for release of the same, the petitioner has stated to have approached this Court by filing this writ petition seeking, *inter alia*, a direction to the respondent authorities to release the final bill amount against the subject-work.

3. In response, the respondent no. 2 i.e. the Chief Engineer, Water

Resources Department, Assam has filed an affidavit-in-opposition on 15.09.2022. It has been averred therein that the subject-work, which was allotted to the petitioner was not technically and administratively sanctioned by the competent authority and no fund allotment had been made by the State Government for which the outstanding dues of the petitioner could not be paid. It is averred that due to non-sanction of funds by the concerned authority, the bill amount of the petitioner could not be cleared but the respondent authorities have been taking necessary steps to release the bills amount of the petitioner.

4. Mr. Goswami, learned Additional Advocate General, Assam has fairly submitted that the subject-work was said to have been completed by the petitioner but the amount against the final bill, submitted by the petitioner, could not be released due to reasons indicated in the affidavit-in-opposition. Considering the fact that the bill is being considered, Mr. Goswami has submitted that the writ petition can be disposed of with a direction to the respondent no. 2 to examine the claim of the petitioner and thereafter, to process the claim of the petitioner to the extent of admitted liability in terms of the principles laid down 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.

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 Chief Engineer, Water Resources Department, Assam to examine the claim of the petitioner within a period of 45 [forty five] days from the date of receipt of a certified copy of this order and thereafter, the respondent authorities will process the claim of the petitioner to the extent of the admitted liability in accordance with law and in the light of the

directions contained in *Tamsher Ali* [supra].

6. The petitioner after obtaining a certified copy of this order shall place the same before the respondent no.2 i.e. the Chief Engineer, Water Resources Department, Assam for doing the needful from his end.

7. The writ petition stands disposed of in terms of the above directions.

JUDGE

Comparing Assistant