

GAHC010030682022



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

Case No. : WP(C)/1295/2022

SUBHAS BARDHAN
S/O LATE SATI NATH BARDHAN, HAFLONG TOWN, NEAR AOC PETROL
PUMP, HAFLONG, DIST- DIMA HASAO, ASSAM, PIN-788819

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY, PUBLIC WORKS DEPARTMENT (R
AND B), GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-781005

2:THE PRINCIPAL SECRETARY
N.C. HILLS AUTONOMOUS COUNCIL
HAFLONG
DIMA HASAO-788819

3:THE SUPERINTENDENT ENGINEER
PUBLIC WORKS DEPARTMENT (R AND B)
HAFLONG-788819
DIST-DIMA HASAO
ASSAM

4:ADDL. CHIEF ENGINEER/CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (R AND B)
HAFLONG
DIST- DIMA HASAO
ASSAM-788819

5:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT (R AND B)
MAHUR ROAD DIVISION
MAHUR
DIST- DIMA HASAO

ASSAM-788830

6:ASSTT. EXECUTIVE ENGINEER
O/O THE ASSTT. EXECUTIVE ENGINEER
PWD
HARANGAJAO (ROADS) SUB-DIVISION
HARANGAJAO
DIST- DIMA HASAO
ASSAM-78881

For the Petitioner(s) : Mr. D. K. Jain, Advocate

For the Respondent(s) : Mr. C. Sharma, Advocate for Respondent Nos. 2 to 6
: Mr. B. Gogoi, Advocate for Respondent No.1

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 21.07.2023

1. The Petitioner herein is aggrieved by the inaction on the part of the Respondent Nos. 2, 3, 4, 5 and 6 in not making payment of Rs.6,09,848/- which is due to the Petitioner for the works completed by him as per the written formal work orders.

2. The facts as could be discerned from the writ petition are that the Petitioner was issued 4 (four) formal work orders in the year 2003 which are enumerated as hereinunder:

- (i) HJO/CS-29/HJO/02-03/799 dated 25.03.2003
- (ii) HJO/CS-31/HJO/02-03/803 dated 25.03.2003
- (iii) HJO/CS-28/HJO/02-03/807 dated 25.03.2003
- (iv) HJO/CS-30/HJO/02-03/824 dated 10.04.2003

3. The Petitioner claims that he had completed the work amounting to a total project cost of Rs.6,10,700/-. The Petitioner thereupon has approached the Respondent Authorities from time to time but however no amount has been paid. In that regard, the Petitioner had also issued a legal notice on 02.08.2019 to the Respondents demanding the amount of Rs.6,10,700/- along with interest. In reply to the said legal notice, the Executive Engineer, PWD, Mahur (Roads) Division, Mahur had issued a communication to the Principal Secretary, N.C. Hills, Autonomous Council stating inter alia that the fund proposal/requisition has already been submitted amounting to Rs.6,09,848/- vide office letter No.601-A dated 10.09.2019 regarding the payment of old liability in respect to the Petitioner. In spite of that, as no payment was made, the Petitioner issued another notice through his counsel claiming the said amount on 12.10.2020. Thereupon, as the Respondent Authorities did not make any payment, the Petitioner has approached this Court by filing this writ petition under Article 226 of the Constitution.

4. It appears on record that this Court had issued notice on 25.03.2022. The Respondent No.5 has filed an affidavit-in-opposition on 20.07.2023 wherein it has been mentioned that the Petitioner was allotted several work orders on various dates by the Assistant Executive Engineer, PWD (Roads), Harangajao Sub-Division under PWD Mahur Road Division, Mahur which were executed by the Petitioner. It was further mentioned that the works were done by the Petitioner under the Hills Area Development Scheme. It was further mentioned that the requisition of funds has already been sent to the State Government but the same has not been received by the Office of the Executive Engineer till date and as soon as the fund for the said Scheme would be received by the Office of the Executive Engineer, the payment would be made.

5. Mr. C. Sharma, the learned counsel appearing on behalf of the Respondent Nos. 2 to 6 submits that the N.C. Hills Autonomous Council along with its Officials duly admits that the Petitioner is entitled to the amount of Rs.6,09,848/-. However, the said amount can only be paid when the fund is released by the Government of Assam in its Public Works Department.

6. Taking into account the above, as the amount has been duly admitted by the Respondent Nos. 2 to 6 and it is on account of non-releasing of the funds that the Petitioner had not been paid his due amount of Rs.6,09,848/-, this Court therefore disposes of the instant writ petition with a direction to the Secretary, Public Works Department (R&B), Government of Assam to verify at its end as regards the stand taken by the Respondent Nos. 2 to 6 relating to the entitlement of the Petitioner of the amount of Rs.6,09,848/- and if upon verification it is found that the Petitioner is entitled to the said amount or such other amount, the same be released to the Respondent No.2 so that the Petitioner can be disbursed the amount which he is entitled to. The said exercise be completed within a period of 4 (four) months from the date a certified copy of the instant order is submitted to the Secretary, Public Works Department (R&B), Government of Assam. The Respondent Nos. 2 to 6 are further directed that upon receipt of the funds from the Respondent No.1, the said Authority shall forthwith release the Petitioner's entitlement.

7. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant