

GAHC010036112020



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

Case No. : WP(C)/1120/2020

RAJIBUL ALAM
SECRETARY, SUB-COMMITTEE, S/O SAFKAT ALI, R/O DANIEL PATH, WARD
NO. 2, MANGALDAI TOWN, DIST-DARRANG, ASSAM, PIN-784125

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, MUNICIPAL ADMINISTRATION DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI-6

3:CHAIRMAN
MANGALDOI MUNICIPAL BOARD
MANGALDOI
DIST-DARRANG
ASSAM
PIN-784125

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

5:THE DEPUTY COMMISSIONER
MANGALDOI

DIST-DARRANG
ASSAM
PIN-78412

For the Petitioner (s) : Mr. A. Paul, Advocate.

For the Respondent (s) : Mrs. S. Baruah, Advocate.

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

22.09.2023

The instant writ petition has been filed by the Petitioner seeking a direction upon the Respondents for payment of an amount of Rs.5 lakhs alongwith interest @ 12% per annum w.e.f. 05.09.2017.

2. The facts as could be seen from a perusal of the materials on record is that a Construction Committee was constituted for execution of works in various wards of Mangaldoi Town under the Integrated Housing Slum Development Programme(IHSDP) for the year 2015-16 in terms with the Mangaldoi Municipal Board's Resolution No. 9 dated 09.01.2017. The Petitioner was awarded a contract for construction of a brick drain from Begamukh Namghar to Bakuli Das and Bhola Das House of Mangaldoi town. The said work was duly completed on 04.09.2017 and the Petitioner claims to be entitled to an amount of Rs. 5 lakhs. However, the Respondents having not paid the said amount, the Petitioner had approached the Mangaldoi Municipal Board on various occasions. The above endeavor on the part of the

Petitioner before the authorities concerned i.e. the Mangaldoi Municipal Board did not bear any fruitful result to the Petitioner for which the Petitioner had filed the instant writ petition seeking the relief as already stated above. The said writ petition was filed on 13.02.2020 and this Court vide an order dated 06.03.2020 issued notice.

3. It reveals from the records that the Executive Officer, Mangaldoi Municipal Board had filed an affidavit-in-opposition on 17th of March, 2022 stating inter alia that it is a fact that the Petitioner had duly executed the work as per the order but the Mangaldoi Municipal Board was not in a position to make payment to the Petitioner on the ground of financial constraints and non-approval by the concerned authority. It was further mentioned that payment of the outstanding amount in respect to the work executed by the Petitioner would be placed before the New Mangaldoi Municipal Board Committee that is to be formed after the election dated 06.03.2022.

4. The learned counsel for the Petitioner submits that inspite of the said affidavit, the Mangaldoi Municipal Board till date had not paid the amount to the Petitioner.

5. I have heard the learned counsels for the parties and perused the materials on record.

6. From a perusal of the materials on record, it transpires that the

Petitioner was allotted the work and the Respondent Mangaldoi Municipal Board had duly admitted that the Petitioner had duly completed the work and is entitled to the amount of Rs. 5 lakhs. However, on account of financial constraints and certain approvals not being granted, the Petitioner had not been paid the said amount. It is also seen that it is on affidavit that the Executive Officer had stated that the outstanding amount in respect to the work executed by the Petitioner would be placed before the New Mangaldoi Municipal Board Committee that is to be formed after the election dated 06.03.2022 and thereupon also even after a passage of more than a 1½ year, the Petitioner had not received the said amount. It is the opinion of this Court that when the Mangaldoi Municipal Board had granted the contract to the Petitioner and the Petitioner had duly completed the contract as per the terms and conditions, which have been duly admitted, the Petitioner is entitled to the said amount and non-payment of the said amount on account of financial constraints cannot be a ground to deny the Petitioner of his legitimate dues. Under such circumstances, this Court therefore disposes off the instant writ petition directing the Respondent Nos. 3 and 4 to disburse the amount of Rs. 5 lakhs to the Petitioner within a period of 4 (four) months from the date a certified copy of the instant order is served upon the Respondent No. 3 i.e. the Chairman, Mangaldoi Municipal Board.

7. It is observed that if the said amount is not paid as directed above, the Petitioner would not only be entitled to resort to such remedies which is available to the Petitioner for non-compliance to the directions passed by this Court but also be entitled to interest @ 7% from the date of the default.

JUDGE

Comparing Assistant