

GAHC010052702019



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

Case No. : Cont.Cas(C)/183/2019

LAKESHWAR SAIKIA
S/O- BHOLA SAIKIA, R/O- VILL- BARANGABARI, P.O. AND P.S. GOHPUR,
DIST- SONITPUR, ASSAM, PIN- 784172

VERSUS

RATUL BORAH
THE SUPERINTENDING ENGINEER, PWD, ROADS DIVISION, TEZPUR, P.O.
TEZPUR, P.S. TEZPUR, DIST- SONITPUR, ASSAM, PIN- 784001

2:SRI KAMAKHAYA PRASAD DAS
SUPERINTENDING ENGINEER
PWD ROADS DIVISION TEZPU

Advocate for the Petitioner : MR. P SARMAH

Advocate for the Respondent : MR. T C CHUTIA

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 31/05/2023

Heard Mr. S. Upadhyay, learned counsel for the petitioner. Mr. B. Gogoi, learned counsel is present on behalf of the respondent.

In terms of the order dated 28/04/2023, the respondent no. 2 Sri Kamakhya Prasad Das is personally present before this Court.

Mr. Gogoi submit that although the respondent no. 2 has retired from service more than a year back, yet, in terms of the order of this Court, he has appeared personally and is presenting

documents to show that the respondent no. 2 did not have any role to play in the matter of compliance of the Court's order. As a matter of fact, necessary records have been forwarded by the Executive Engineer, PWD, Biswanath District Territorial Road Division to the office of the Chief Engineer, PWD, Assam for clearance of the bill of the petitioner, pursuant where to, 50% of the amount has already been released. However, since the direction of this Court was to clear the bill of the petitioner by following the guidelines laid down in the case of ***Tamsher Ali Vs. State of Assam and others*** reported in ***(2008) 4 GLT 1***, the order of the Court would be complied with at an appropriate stage, in accordance with the said guidelines. Mr. Gogoi has further submitted that neither the Chief Engineer nor the Executive Engineer or the concerned official of the Finance Department have been impleaded as party in this case. Therefore, this contempt case is not maintainable.

After going through the materials on record, this Court had directed personal appearance of the respondent no. 2 on account of the fact that the respondent's counsel did not appear before the Court on the last date although, this is an old pending contempt case instituted in the year 2015. However, the above facts were not brought to the notice of the Court.

Be that as it may, after hearing the submission of learned counsel for both the parties, this Court is of the opinion that in the absence of the necessary parties responsible for implementation of the Court's order, this contempt case cannot survive. Moreover, since the direction was to comply with the Court order by following the principles laid down in the case of ***Tamsher Ali (Supra)***, no further order can be passed in this contempt case, unless it is specifically pleaded and demonstrate that the guidelines laid down in ***Tamsher Ali (Supra)*** have been violated.

As such, by granting liberty to the petitioner to file appropriate writ petition if he continues to remain aggrieved in the matter, this contempt case stands closed.

Personal appearance of the respondent no. 2 stands dispensed with.

JUDGE

sukhamay

Comparing Assistant