GAHC010053782021

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

Case No. : WP(C)/1950/2021

TAPAN MEDHI
S/O LATE AMRIT MEDHI, RESIDENT OF VILLAGE SALANA, PO AND PS KHETRI, DIST KAMRUPM ASSAM 782403

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, WATER RESOURCES DEPARTMENT, DISPUR GUWAHATI 06

2:THE CHIEF ENGINEER

WATER RESOURCE DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI 03

3:THE SUPERINTENDING ENGINEER

NAGAON WATER RESOURCES CIRCLE
NAGAON
782001

4:THE EXECUTIVE ENGINEER

MORIGAON WATER RESOURCES DIVISION
MORIGAON
782105

5:THE ASSISTANT EXECUTIVE ENGINEER

JAGIROAD WATER RESOURCES SUB DIVISION

JAGIROAD
78241

Advocate for the Petitioner : MR S MUKTAR

Advocate for the Respondent : SC, WATER RESOURCE

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 12-06-2023

Heard Mr. S. Muktar, learned counsel for the petitioner and Mr. B. Goswami, learned Additional Advocate General, Assam assisted by Mr. P. Kakati, learned counsel for all the respondents.

2. In this writ petition filed under Section 226 of the Constitution of India, it is the case of the petitioner that pursuant to a formal work order dated 28.01.2013 received from the respondent authorities in the Water Resources Department to execute certain a contract-work under the Flood Management and Border Areas Programme [MFBAP] Scheme of the Government of India, he had proceeded to execute the same and in due course, completed the same to the satisfaction of the respondent authorities. Pursuant to completion of the contract works, he had submitted the final bills amounting to Rs. 3,80,631/- for such contract-work.

3. The Chief Engineer, Water Resources Department has filed a counter affidavit wherein it is stated in paragraph nos. 7 & 8 that the outstanding liability of the Water Resources Department to the petitioner is for an amount of Rs. 3,80,631/- in the following manner :-

7. That with regard to the statement made in paragraph 5 to the writ petition your

humble deponent begs to state that the outstanding liability of the Department towards the petitioner is an amount of Rs. 3,80,631/-. The liability amount could not be paid to the petitioner due to non-availability of fund and the same will be paid as soon as fund is received from the Government.

8. That your deponent denies the correctness of the statement made in paragraphs 6, 7, 8, 9, 10 and 11 to the writ petition. It is further stated that the scheme is under FMP [Flood Management Programme] under XI Plan and the Head of Account is i) 4711-01-103 -0120-977-13-99-SOPD-SS-GA-V [State share] and ii) 4711-01-103-0120-977-13-99-SOPD-LS-GA-V [central share]. The estimated amount of the scheme was Rs.11062.00 Lakh for which administrative approval is accorded. Accordingly, works orders were issued to the petitioner along with similarly situated contractors. But till today the government had released only an amount of Rs.3800.24 lakhs which was proportionately distributed to the contractors involved in execution of the works. As per government guidelines full state share is already been paid. There rest amount as central share is not yet received from the Government of India. Accordingly, a letter to the Secretary to the Govt. of Assam, Water Resources Department, Dispur, Guwahati 6 been submitted vide NO.WR(ED)Tech/5133/2005/Part- III/142 dated 18.10.2016 with a request to move the Ministry of Water Resources, GR & RD for approval of balance cost towards financial completion of the already physically completed schemes.

4. The learned counsel for the parties have submitted that in respect of the contract works executed under the FMBAP Scheme, the financial burden of the Government of India was up-to 80% and the share of the Government of Assam was to the extent of 20%. It is further submitted by them that a batch of writ petitions, W.P.[C] no. 4734/2021 and others, involving similar issue like the one involved in this writ petition i.e. non-disbursal of admitted liability of outstanding contractual dues, were already disposed of by a common order dated 27.09.2022. It is submitted by Mr. Goswami, learned Additional Advocate General, Assam that the issue involved in this writ petition includes the matter of non-disbursal of an admitted liability to the extent of Rs. 3,80,631/- and the

same is clearly covered by the common order dated 27.09.2022. He has, thus, submitted that this writ petition can also be disposed of in similar terms.

5. In view of admission of liability by the Chief Engineer, Water Resources Department in its counter affidavit to the extent of Rs. 3,80,631/-, and since the issue involved in this writ petition is already covered by the common order dated 27.09.2022, this writ petition is disposed of in similar terms as made in the common order dated 27.09.2022 passed in the batch of writ petitions including W.P.[C] no. 4734/2021.

JUDGE

Comparing Assistant