

GAHC010054572021



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

Case No. : WP(C)/2124/2021

TAPAN MEDHI
S/O LATE AMRIT MEDHI, R/O VILL. SALANA, P.O. AND P.S. KHETRI, DIST.
KAMRUP (M), ASSAM, PIN 782403

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM, WATER
RESOURCES DEPTT., DISPUR, GUWAHATI 6

2:THE CHIEF ENGINEER

WATER RESOURCES DEPTT. ASSAM
CHANDMARI
GUWAHATI 3

3:THE SUPERINTENDING ENGINEER

NAGAON WATER RESOURCES CIRCLE
NAGAON
PIN 782001

4:THE EXECUTIVE ENGINEER

MORIGAON WATER RESOURCES DIVISION
MORIGAON
PIN 782105

5:THE ASSTT. EXECUTIVE ENGINEER

JAGIROAD WATER RESOURCES SUB DIVISION
JAGIROAD

PIN 782411

6:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF JAL SHAKTI
DEPARTMENT OF WATER RESOURCES
RIVER DEVELOPMENT AND GANGA REJUVENATION
NEW DELHI-11000

For the Petitioner (s) : Mr. S. Muktar, Advocate.

For the Respondent (s) :Mr. B. Goswami, Addl. AG, Assam.
Mr. R.K.D. Chudhury, Dy. S.G.I.
Mrs. S. Baruah, Advocate.

Date of hearing & Judgment : 29.11.2023

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
JUDGMENT AND ORDER(ORAL)

The instant writ petition has been filed seeking a direction upon the Respondent Authorities to pay the amount of Rs.73,21,168/- within a fixed period of time alongwith interest thereon.

2. The records reveals that the Petitioner who is a Class-I A registered contractor of the Water Resources Department, Morigaon was issued a Formal Work Order bearing No.MGWRD/W-3/2014-15/58 dated 27.1.2015 to execute the contract work i.e. re-allotment against cancellation of Scheme "R/S to T/Dyke along both banks of Kopili river from Charaihagi to Tuklaitup (L/B) Basundhari to Killing-Kopili junction (L/B) and Chaparmukh

to Ahatguri Amsoi P.W.D. Road (R/B) including anti-erosion measures at different reaches”.

3. It is the case of the Petitioner that the Petitioner completed the work in time and after due inspection and measurement, the concerned Division prepared first Running Bill No. RA/I/MG/3364 dated 31.12.2018 for an amount of Rs.73,21,168/- and submitted before the concerned authority for payment. It is the further case of the Petitioner that the Petitioner had approached the Respondent Authorities time and again but the said amount was not released for which the Petitioner have approached this Court by filing the instant writ petition seeking the reliefs as afore stated.

4. From a perusal of the materials on record, it reveals that on 26.3.2021 notice was issued making it returnable by 4 weeks. The Respondents however, have not filed their affidavit-in-opposition.

5. Be that as it may, on 4.10.2023, when the matter was listed, Mr. B.Goswami, the learned Additional Advocate General also representing all the State Respondents submitted that the issue involved is covered by the judgment of the Coordinate Bench of this Court dated 27.9.2022 passed in W.P.(C) No. 4734/2021. Be that as it may, as at that relevant point of time, the Secretary, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, New Delhi-110001 was not a party to the instant proceedings, an interlocutory application was filed which was registered and numbered as IA(C)No.3140/2023 for impleading the said authority.

6. This Court vide an order dated 16.10.2023 impleaded the said

authority i.e. Union of India represented by the Secretary, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, New Delhi-110001 as the Respondent No. 6 to the instant writ petition. On the same day, Mrs. S. Baruah, the Central Government Counsel accepted notice on behalf of the Respondent No. 6.

7. Be that as it may, Mr. R.K.D. Choudhury, the learned Dy. S.G.I. submits that the issue involved in the instant writ petition is covered by the judgment passed by the Coordinate Bench of this Court dated 27.9.2022 in W.P.(C) No.4734/2021 and appropriate directions may be issued in terms with the said judgment.

8. This Court have duly perused the judgment passed by the Coordinate Bench of this Court dated 27.9.2022 in W.P.(C) No. 4734/2021, wherein it was duly observed that there was no dispute about the fact that the Petitioners therein had in fact executed the work and their claims have also not been disputed by the Departmental Authorities. It was further observed by the Coordinate Bench of this Court that since budgetary provision have been made recently, the said writ petition alongwith others were disposed off by the Coordinate Bench of this Court by issuing certain directions.

9. Today when the matter has been taken up, Mr. B. Goswami, the learned Additional Advocate General have placed the instructions before this Court to the effect that the Respondent Authorities do not deny the Petitioner's entitlement to the amount so claimed. The said instructions is kept on record and marked with the letter "X". It is further seen from the

said instructions that the estimated amount of the scheme under which the Petitioner and various other contractors had worked was Rs.11062 lakhs and out of which 90% was supposed to be borne by the Government of India under the Central share and the remaining 10% was supposed to be borne by the Government of Assam under the State share. It was further mentioned that the total bill value of the Petitioner against all the work order issued against the said scheme was Rs.14,47,60,804.00 and out of which the payment of Rs.4,63,66,979.00 have been proportionately made to the Petitioner till date. It was mentioned that the full payment could not be made to the contractor as the payment is yet to be received by the Department from the Government of India. He further submitted that the Water Resource Department is taking all possible steps for release of fund from the Government of India. The said instructions though makes it clear that the Petitioner is entitled to certain amount but it is however not clear as to whether the petitioner is entitled to the amount so claimed in respect to the work order in question. Therefore taking into account the order passed by the Coordinate Bench of this Court dated 27.9.2022 in W.P.(C) No. 4734/2021, this Court disposes off the instant writ petition with the following directions :—

(i) The Chief Engineer, Water Resources Department, Guwahati who is the Respondent No. 2 is directed to make verification as to whether the Petitioner is entitled to the amount of Rs.73,21,168/- in respect to the work order in question. If upon verification of the said amount, it is found that the Petitioner is entitled to the said amount or any part thereof, this

Court directs the Respondents herein to be disburse the said amount to the Petitioner. This Court further directs the said verification be carried out within 1 month from the date a certified copy of the instant judgment is served upon the Chief Engineer, Water Resources Department, Guwahati.

(ii) Upon carrying out the verification by the Chief Engineer, Water Resources Department, Guwahati, within the time as stipulated hereinabove and if it is found that the Petitioner is entitled to the amount so claimed or any part thereof, the the Chief Engineer, Water Resources Department, Guwahati shall communicate the same to the Additional Chief Secretary In-Charge of the Water Resources Department so that the 10% of the amount pertaining to the share of the Water Resources Department of the Government of Assam is disbursed to the Petitioner. The same be done within a period of 60 days from the date of completion of the verification.

(iii) As regards the remaining 90% of the amount which is the share of the Government of India i.e. the Respondent No. 6, the Additional Chief Secretary In-Charge of the Water Resources Department, State of Assam shall duly communicate to the Ministry of Jal Shakti for release of the said amount due under the scheme to the Water Resources Department of the State of Assam. The Secretary to the Ministry of Jal Shakti of the Government of India upon receipt of the said request being made as directed, shall release the said amount, if not already released to the State Government. The Water Resources Department of the State of Assam shall upon receipt of the amount release the same to the Petitioner. This Court

further directs that after completion of the verification, the authorities so directed herein shall complete the exercise within a period of 90 days from thereof.

10. With the above observations and directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant