

GAHC010058332020



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

Case No. : WP(C)/1984/2020

SALIM AHMED CHOUDHURY
S/O- MD. SHARIF UDDIN, VILL- WATER WORKS ROAD, P.O. SILCHAR,
DIST.- CACHAR (ASSAM)

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY., PUBLIC WORKS (ROADS) DEPTT., DISPUR
GHY-6, ASSAM
2:THE CHIEF ENGINEER
PUBLIC WORKS DEPTT. (ROADS)
CHANDMARI
GHY-3
ASSAM
3:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT.
SILCHAR RURAL ROAD DIVISION
SILCHAR
ASSAM
4:THE SUPERINTENDING ENGINEER
PWD (ROADS)
CACHAR CIRCLE
SILCHAR ASSA

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

For the Respondent(s) : Mr. B. Choudhury, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

09.10.2023

The instant writ petition has been filed by the Petitioner being

aggrieved by the inaction on the part of the Respondent Authorities in not making payment of the amount of Rs.7,04,346/- to which the Petitioner claims to be entitled to and for appropriate directions for releasing of the said amount.

2. The facts involved in the instant case as could be discerned from a perusal of the writ petition is that a work order was issued dated 10.06.2008 by the Chief Engineer, Public Works Department (Roads), Chandmari for construction of road i.e. National Highway 54 at Kabuganj to Katakhai via Bekirpar under RIDF-XII of NABARD for a total price of Rs.72,53,521/-.

3. The Petitioner pursuant to the receipt of work order, started the construction work of the road and completed the same on 05.02.2014. It is the further case of the Petitioner that the Respondent No. 4 had made physical verification of the site and issued a certificate of physical verification certifying that the works executed by the Petitioner are as per the approved estimate. The Respondent No. 3 on 30.12.2017 also after making necessary measurement of the site and physical verification issued a work completion certificate to the effect that the work having tender value of Rs.81,37,128/- and up-to date bill value of Rs.81,34,260/- and present bid value of Rs.7,04,346/- have been found completed by the Petitioner in all aspects as per the specifications, drawings and the tender agreement and the specifications of the Department. It is also the specific case of the Petitioner that the Petitioner was paid an amount of Rs. 74,29,870/- out of the total amount of Rs.81,34,260/- However, an

amount of Rs. 7,04,346/- remained pending. The Petitioner thereupon had approached the Respondent Authorities time and again for payment of the said amount of Rs. 7,04,346/- and in that regard had submitted representations on 24.05.2018 and 25.02.2019. However, as the Respondent Authorities did not make the payment of the said amount, the instant writ petition was filed on 5th of March, 2020.

4. This Court vide an order dated 12.10.2020 issued notice. The records reveals that the Respondent Authorities did not file any affidavit-in-opposition.

5. This Court have heard the learned counsel for the parties and have also perused the materials on record.

6. The Certificate of Physical Verification has been enclosed as Annexure-2, wherein it has been shown that the present bill value is Rs.7,04,346/- It is also seen from the completion certificate signed by the officials of the Respondent Authorities that up-to-date bill value is of Rs.81,34,260/- and the payment already made is Rs.74,29,870/- and the present bill value is Rs.7,04,346/-. It is also seen from Annexure-4 to the writ petition that the Superintendent Engineer, PWD (Roads) vide the Communication dated 12.01.2018 requested the Chief Engineer, PWD(Roads) making a requisition of a fund of an amount of Rs. 7,04,346/- to be paid to the Petitioner. However, the said amount remains unpaid inspite of those certifications as referred to hereinabove.

7. This Court have also heard Mr. B. Choudhury, the learned Standing

Counsel for the PWD who submits that the entitlement of the Petitioner would require further verification to be carried out and thereupon if it is found that the Petitioner would be entitled to the amount of Rs. 7,04,346/-, the Petitioner would be paid the said amount as per the directions contained in the judgment of the Full Bench in the case of ***Tamsher Ali and Others Vs. State of Assam and others*** reported in ***2008 (4) GLT 1***.

8. This Court accordingly disposes of the writ petition thereby directing the Respondent No. 2 to carry out the necessary verification as to whether the Petitioner is further entitled to the amount of Rs.7,04,346/- in respect to the work in question. If upon verification, it is found that the Petitioner is entitled to the said amount of Rs.7,04,346/-, the said amount be disbursed to the Petitioner in terms with the directions contained in the judgment of the Full Bench in the case of ***Tamsher Ali (supra)*** . It is however made clear that the said verification proceedings shall be concluded within a period of 1 (one) month from the date of submission of a certified copy of the instant order.

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

JUDGE