

GAHC010069262022



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

Case No. : WP(C)/2626/2022

M/S GOSWAMI ENGINEERING
REP. BY ITS PARTNER DIGANTA GOSWAMI, S/O- LATE DR. BARADA
KANTA GOSWAMI
AGE-58 YRS
MONIMA GOSWAMI
W/O- DIGANTA GOSWAMI,
AGE- 50 YRS
R/O- NH 37 (A), BATAMARI, P.O- BHOJKHOWASAPORI, TEZPUR, DIST-
SONITPUR, ASSAM, PIN-784027

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, IRRIGATION DEPARTMENT, DISPUR, GUWAHATI-06

2:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT
CHANDMARI
GUWAHATI-03

3:THE EXECUTIVE ENGINEER
DHEKIAJULI BARCHALLA DIVISION (IRRIGATION)
DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN-784110

4:THE SUPERINTENDING ENGINEER
TEZPUR CIRCLE (IRRIGATION)
TEZPUR
DIST- SONITPUR
ASSAM
PIN-78411

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : SC, IRRIGATION

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 31-03-2023

Heard Ms. F. Intaz, learned counsel for the petitioner and Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department for all the respondents.

2. The petitioner has claimed that after being awarded 3 [three] contract works viz. [i] 'Drawal of 11 Kv HT Line & Erection of 25 KvA Transformer S/S for Niz Bihaguri Bordubia DTW [Pt. No.-1] under RIDF SVIII [NABARD]'; [ii] 'Drawal of 11 Kv HT Line & Erection of 25 KvA Transformer S/S for Nerairati Geruapather DTW [Pt. No.-1] under RIDF XVIII [NABARD]'; & [iii] 'Drawal of 11 Kv HT Line & Erection of 25 KvA Transformer S/S for Alisinga DTW [Pt. No.-1] under RIDF SVIII [NABARD]' ['the Contract-Works', for short] by 3 [three] final orders, all dated 25.09.2014 [Annexure-1, Annexure-2 & Annexure-3], the petitioner had executed the same and completed the same successfully to the satisfaction of the respondent authorities. According to the petitioner, the total value of the 3 [three] Contract-Works was Rs. 15,21,896/- and accordingly, he had submitted the final bills for the 3 [three] Contract-Works for an amount of Rs. 15,21,896/-. Drawing attention of this Court to the letter bearing nos. [i] CEI[B] 55/2018/PT/4 dated 19.02.2020 [Annexure-4]; [ii] CEI[B] 55/2018/PT/5 dated 19.02.2020 [Annexure-5]; & [iii] CEI[B] 55/2018/PT/6 dated 19.02.2020 [Annexure-6], the learned counsel for the petitioner has submitted that by the said 3 [three] letters, the respondent no. 2 had already submitted for demand of fund in respect of the 3 [three] Contract-Works certifying that the physical progress of works were achieved to the extent of 100% in respect of 3 [three] Contract-Works. The respondent no. 3 had verified the execution of the Contract-Works physically and submitted a Physical Verification Report [Anenxure-7] stating that the electrical part of the works in the irrigation scheme were executed as per estimates and work orders and the scheme was in running condition and

supplying water to the needy cultivators since July, 2016. The respondent no. 3 had further endorsed that the fund for the contract-works done be released. When despite repeated approaches for disbursal of the said amount the respondent authorities did not seem to have taken any discernible action for release of the same, the petitioner has stated to have approached this Court by filing this writ petition seeking **inter alia** a direction to the respondent authorities in the Irrigation Department to release the afore-mentioned amount of Rs. 15,21,896/-.

3. In response, Mr. Upadhyay, learned Standing Counsel, Irrigation Department has submitted that he has received instructions to the effect that the Contract-Works were duly executed by the petitioner and an amount of Rs. 15,21,896/- as claimed by the petitioner, is admittedly due from the respondent Irrigation Department. He has fairly submitted that since the amount of Rs. 15,21,896/- is an admitted liability and the said amount could not be released due to paucity of fund till date, the case is squarely covered by the Full Bench judgment of this Court, rendered on 29.09.2008 in **Writ Appeal No. 484/2005 [Tamsher Ali & Ors. vs. State of Assam & Ors.]**, reported in 2008 [4] GLT 1 [FB] and similar other 194 writ petitions and, as such, the respondent authorities will process the claim of the petitioner in light of the principles enunciated in the aforesaid judgment.

5. Ms. Intaz, learned counsel for the petitioner has submitted that the respondent authorities may be directed to take immediate action for disbursal of the amount of Rs. 15,21,896/- immediately, in terms of the principles laid down in **Tamsher Ali [supra]**.

6. In view of the above submissions made by the learned counsel for the parties, this writ petition is disposed of at the admission stage itself with a direction to the respondent no. 2 i.e. the Chief Engineer, Irrigation Department to examine the claim of the writ petitioner within a period of 45 days from the date of receipt of a certified copy of this order and then, the concerned respondent authorities will process the claim of the petitioner as regards disbursal of Rs. 15,21,896/- in accordance with law more particularly, in the light of the directions contained in **Tamsher Ali [supra]**.

7. The petitioner after obtaining a certified copy of this order shall place the same before the respondent no. 2 i.e. the Chief Engineer, Irrigation Department, for doing the needful from his end.

8. The writ petition stands disposed of in terms of the above directions.

JUDGE

Comparing Assistant