

GAHC010070492023



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

Case No. : WP(C)/1967/2023

ADIL AHMED
S/O- BIKRAMUDDIN AHMED,
R/O- WARD NO. 8, NAZIRA TOWN,
P.O. NAZIRA, P.S.- NAZIRA,
DISTRICT- SIVASAGAR, ASSAM,
PIN- 785685.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF ENGINEER,
IRRIGATION DEPARTMENT,
CHANDMARI, GUWAHATI-3.

2:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI-3.

3:THE ADDL. CHIEF ENGINEER (MECH)
IRRIGATION DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI-3.

4:THE EXECUTIVE ENGINEER
DIBRUGARH MECHANICAL DIVISION (IRRIGATION)
DIBRUGARH

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, IRRIGATION

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 21-08-2023

Mr. P.H. Konwar, learned counsel for the petitioner and Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department for all the respondents.

2. The petitioner is a registered contractor with the Irrigation Department, Government of Assam. It is the case of the petitioner that after a tender process initiated by a Notice Inviting Tender bearing no. 9 of 2014-2015, a contract-work having the Schedule of Work : "Supply, Installation, Testing & Commissioning of 4 [four] sets of 40 HP centrifugal pump set for Hunghungia ELIS and supply, laying, fitting-fixing of suction & delivery of HDPE pipes & accessories of 250 mm dia including supply, installation and commissioning of the riming system with HP mono block pump set along with GI pipes & fittings of 40 size in complete as directed" was awarded to the petitioner. The schedule of works also included the site preparation including dismantling & withdrawing the old pump set & CIDF pipes & accessories and carrying these materials to the store of Dibrugarh Mech Sub-Divn. [I] Dibrugarh [the Contract-Work no. 1', for short] under AIBP for the year : 2014-2015. The Contract-Work no. 1 was awarded vide a Work Order dated 26.03.2015 with a contract value of ₹ 17,97,600/-. The petitioner was also awarded a Supply Order bearing no. CEI[MECH]77/2008/Pt-II/5 dated 30.01.2017 for a contract-work : "Supply Order of Rubber, Hose Pipe, etc. for LIS from River Tiloi in Hunghungia area [Ph-II] under AIBP during the year 2014-15" [the Contract-Work no. 2' for short] under Dibrugarh Mechanical Division [Irrigation], Dibrugarh and Supply Order bearing no. SEMJ/A-9/Pt-V/558 dated 16.02.2017 for a contract-work : "Supply of certain materials for Hunghungia L.I.S. under AIBP for the year : 2014-2015" [the Contract-Work no. 3', for short]. According to the petitioner, after successfully executing all the three Contract-Works, he submitted the final bills amounting to ₹ 19,37,000/- to the respondent authorities.

3. It is the claim of the petitioner that after issuance of formal work orders, he proceeded to execute the Contract-Works. The petitioner has claimed that he had executed the Contract-

Works to the extent of 100% and upon inspection, the respondent no. 4 had issued a Physical Inspection Report certifying that the Contract-Works were found completed to the extent of 100%. After completion of the Contract-Works, the petitioner had submitted his final bills in December, 2020 for an amount of ₹ 19,37,000/-. The petitioner has contended that neither the final bill amount i.e. ₹ 19,37,000/- nor any part of it was disbursed to the petitioner despite repeated approaches made with the respondent authorities, the petitioner has to prefer the instant writ petition seeking *inter alia* a direction to the respondent authorities to release the final bill amount against the Contract-Works.

4. Mr. Upadhyay, learned Standing Counsel, Irrigation Department has submitted that he has received instructions from the Departmental Authorities as well as the Chief Engineer, Irrigation that the amount of ₹ 19,37,000/- is an admitted liability in respect of the three Contract-Works executed by the petitioner. He has also referred to a communication bearing no. DLCD[I]/Esstt./CC/2021-22/283 dated 01.08.2023. He has submitted that the claim of the petitioner could not be processed further due to lack of funds. He has further submitted that the writ petition can be disposed of with a direction to the respondent no. 2 i.e. the Chief Engineer, Irrigation, Assam to examine the claim of the petitioner and thereafter, to process the claim of the petitioner for disbursement to the extent of admitted liability, in terms of the principles laid down in 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.

5. 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, Assam to examine the claim of the petitioner with regard to his claim of ₹ 19,37,000/- within a period of 45 [forty-five] days from the date of receipt of a certified copy of this order and thereafter, to process the claim of the petitioner to the extent of the admitted liability for disbursement in accordance with law and in the light of the directions contained in **Tamsher Ali** [supra].

6. 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, Assam, Assam for doing the needful from his end.

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

JUDGE

Comparing Assistant