

GAHC010071552023



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

Case No. : WP(C)/1888/2023

MD. JAN MOHAMMAD TALUKDAR
S/O- LATE SHAHJAHAN ALI TALUKDAR, R/O- H.NO. 1, SARUDHAR GOGOI
PATH, OPP. TO LITTLE FLOWER SCHOOL, HATIGAON, P.O. HATIGAON,
GUWAHATI- 18, DIST.- KAMRUP (M), ASSAM

VERSUS

BODOLAND TERRITORIAL COUNCIL AND 3 ORS
REP. BY ITS PRINCIPAL SECRETARY, KOKRAJHAR, P.O. KOKRAJHAR,
DIST.- KOKRAJHAR, ASSAM, PIN- 783370

2:THE SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
P.O. KOKRAJHAR
DIST.- KOKRAJHAR
ASSAM
PIN- 783370

3:THE DIRECTOR
PANCHAYAT AND RURAL DEVELOPMENT (P AND RD)
BTC
KOKRAJHAR
DIST.- KOKRAJHAR
ASSAM
PIN- 783370

4:THE BLOCK DEVELOPMENT OFFICER
JALAH DEVELOPMENT BLOCK
JALAHGHAT
BAKSA
ASSAM

PIN- 78132

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : SC, BTC

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

10.04.2023

1. Heard Mr. K.N. Choudhury, learned Senior Counsel assisted by Mr. P. Sarma, learned counsel for the petitioner, who submits that in terms of the order dated 12.09.2022 passed in WP(C) No.4337/2020 and the order dated 18.11.2022 passed by the Director, P&RD, BTC, Kokrajhar, the petitioner is to be paid Rs.27,60,000/- within a period of 2 (two) months w.e.f. 12.09.2022. However, till date no payment has been made to the petitioner. He accordingly prays that a direction should be issued to the respondents, to make the necessary payment of the amount of Rs.27,60,000/- within a specified time period.

2. Mr. P. Nayak, learned counsel for all the respondents fairly submits that the only question remaining is with regard to the time period for paying the admitted amount to the petitioner.

3. I have heard the learned counsels for the parties.

4. The petitioner had been selected for the contract work of "Erosion

Protection Work with Boulder Pitching on the South Bank of River Rupahi starting from Rupahi RCC Bridge to Narayani Basumatary's land under SOPD 2017-2018" at an estimated cost of Rs.47,12,850/-. Though a part of the contract bill was given to the petitioner, the balance amount was not given to the petitioner. Being aggrieved, the petitioner filed WP(C) No.4337/2020.

5. WP(C) No.4337/2020 was disposed off, vide order dated 12.09.2022 by directing the Director of P&RD, BTC to cause an enquiry as to whether the petitioner had successfully completed the work in question and as to whether any defect remained in the work. Further, whether the defect, if any, was duly notified to the petitioner within the defect liability period. This Court in its order dated 12.09.2022 also stated that a reasoned order should be passed by the Director and if it was in favour of the petitioner, necessary consequential order for releasing the billed amount should be made.

6. In pursuance to the order dated 12.09.2022 passed in WP(C) No.4337/2020, the Director, P&RD, BTC passed an order dated 18.11.2022, by holding that from the statements of witnesses and during spot inspection conducted by the Director, it was found that the scheme was successfully completed, but it was damaged due to flood. Further, no written notice was served to the petitioner, to rectify the damage during the defect liability period of 1 (one) year from the date of completion of the scheme. The order dated 18.11.2022 issued by the Director thus required the Block Development Officer, Jalah Development Block to submit necessary bills, vouchers, reports, photographs, certificate etc. for taking further necessary action for payment of the remaining balance amount of Rs.27,60,000/- to the petitioner, subject to

availability of fund and necessary clearance from Audit in the BTC.

7. The above facts clearly goes to show that the petitioner is entitled to receive the unpaid bills of Rs.27,60,000/-. Accordingly, in terms of the order dated 18.11.2022 passed by the Director, P&RD, BTC, the respondent no.4 is directed to comply with the direction to submit necessary bills, vouchers, reports, photographs, certificate etc. to the Director, P&RD, BTC within a period of 2 (two) weeks from the date of receipt of a certified copy of this order. The respondents are thereafter directed to pay to the petitioner the outstanding bill amounting to Rs.27,60,000/-, within a further period of 3 (three) months.

8. The writ petition is accordingly disposed off.

JUDGE

Comparing Assistant