

GAHC010074052022



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

Case No. : WP(C)/2812/2022

M/S M K ELECTRIC AND ANR
REPRESENTED BY ITS PROPRIETOR- NAZRUL CHOUDHURY HAVING ITS
PRINCIPAL PLACE OF BUSINESS AT HOUSE NO. 21, KALYANPUR MASJID
ROAD, GANESHGURI, DISPUR, GUWAHATI-6

2: NAZRUL CHOUDHURY
S/O
GOVERNMENT REGISTERED CIVIL
INTERIOR
FURNISHING AND ELECTRICAL CONTRACTOR AND ORDER SUPPLIERS
P/R/O VILL-JHARAMAR
BATAKUCHI
P.O.-SANEKUCHI
P.S.-GHAGRAPAR
DIST-NALBARI
ASSAM
PIN-781350
P/R/A HOUSE NO. 21
KALYANPUR MASJID ROAD
GANESHGURI
DISPUR
GUWAHATI-

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME AND POLITICAL DEPARTMENT, ASSAM
SACHIVALAYA, DISPUR, GUWAHATI-6

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-6

3:THE COMMISSIONER OF FINANCE
GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-6

4:THE DIRECTOR GENERAL OF POLICE (ADMINISTRATION) ASSAM
POLICE HEAD QUARTER
ULUBARI
GUWAHATI-7
DIST-KAMRUP(M)
ASSAM

5:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (ADMINISTRATION)
ASSAM
POLICE HEAD QUARTER
ULUBARI
GUWAHATI-7
DIST-KAMRUP(M)
ASSAM

6:THE INSPECTOR GENERAL OF POLICE (ADMINISTRATION)
ASSAM
POLICE HEAD QUARTER
ULUBARI
GUWAHATI-7
DIST-KAMRUP(M)
ASSAM

7:THE SUPERINTENDENT OF POLICE
KAMRUP
AMINGAON
DIST-KAMRUP
ASSAM
PIN-78103

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

17.03.2023

Heard Mr. R. S. Chouhan, learned counsel for the petitioner. Also heard Mr. N. Goswami, learned Government Advocate, Assam and Mr. A. Chaliha, learned Standing Counsel, Finance Department, Government of Assam.

2. The petitioner has filed the present writ petition seeking a direction for release of payments in respect of works executed by the petitioner in terms of the work orders issued.

3. The petitioner was issued the following work orders in respect of the works allotted to him:

“(i) KP(R)/Q/LS Election, 2019/205 dated 08.04.2019;

(ii) KP(R)/Q/LS Election, 2019/206 dated 08.04.2019;

(iii) KP(R)/Q/LS Election, 2019/207 dated 08.04.2019;

(iv) KP(R)/Q/LS Election, 2019/208 dated 08.04.2019;

(v) KP(R)/Q/LS Election, 2019/209 dated 08.04.2019;

(vi) KP(R)/Q/LS Election, 2019/210 dated 08.04.2019;

(vii) KP(R)/Q/LS Election, 2019/211 dated 08.04.2019;

(viii) KP(R)/Q/LS Election, 2019/213 dated 08.04.2019;

(ix) KP(R)/Q/LS Election, 2019/214 dated 08.04.2019;

(ix) KP(R)/Q/LS Election, 2019/156 dated 08.04.2019;

(x) KP(R)/Q/LS Election, 2019/157 dated 08.04.2019.”

4. It is submitted that the works were duly executed and completion certificates were also issued for the works executed by the competent authority. Copies of the completion certificates are annexed as Annexure C to the writ petition.

5. Pursuant to completion of work, the petitioner submitted bills for the works executed. However, the same remained unpaid. Though reminders have been issued but the respondent-authorities have not yet released the bills.

6. According to the petitioner, in respect of the bills raised, certain amounts were released. However, an amount of Rs.11,34,000/- (Rupees Eleven Lakhs Thirty Four Thousand) only had remained unpaid. The details of bills as well as the amount outstanding are reflected as under:-

<u>Details of bills</u>	<u>Date of Work</u>	<u>Outstanding amount</u>
1. KP(R)/Q/LS Election, 2019/205	08.04.2019	Rs.1,13,000/-
2. KP(R)/Q/LS Election, 2019/206	08.04.2019	Rs.1,13,000/-
3. KP(R)/Q/LS Election, 2019/207	08.04.2019	Rs.1,13,000/-
4. KP(R)/Q/LS Election, 2019/208	08.04.2019	Rs.1,13,000/-
5. KP(R)/Q/LS Election, 2019/209	08.04.2019	Rs.1,13,000/-
6. KP(R)/Q/LS Election, 2019/210	08.04.2019	Rs.1,13,000/-
7. KP(R)/Q/LS Election, 2019/214	08.04.2019	Rs.2,28,000/-
8. KP(R)/Q/LS Election, 2019/157	08.04.2019	Rs.2,28,000/-

7. Learned counsel for the petitioner submits that although assurances have been given by the respondent-department, no such amount has been released as yet.

8. The respondent-department has filed an affidavit whereby they did not raise any dispute in respect of the works allotted or regarding completion of the work. It is the contention of the respondent-department that the amount required to be released to the petitioner could not be released as funds required have not been received by the concerned Department from the Finance Department, Government of Assam. It is averred in the affidavit that once the amount is received, the amount will be cleared.

9. Today when the matter is called up, Mr. Goswami, learned Government Advocate, Assam submits that *ex-post-facto* approval for six works have been accorded by the Home Department. It is further submitted that the requirement of the fund proposal has already been sent to the Finance Department, which has not yet been received and as and when funds are received, the amount shall be released to the petitioner.

10. Upon hearing learned counsel for the parties, this writ petition is disposed of with direction to the respondent-department to pursue their proposal before the Finance Department and, thereafter, as and when funds are received, the amount shall be released to the petitioner in respect of the works in which *ex-post-facto* approval has already been accorded. The Finance Department is directed to expedite the proposal for requirement of funds by the department at an early date. The Finance Department will endeavour to release the same within 60 days from the date of receipt of a certified copy of this order pursuant to which respondent No.4, Director General of Police (Administration), Assam shall release the amount(s) to the petitioner in terms of the *ex-post-facto* approval already granted.

11. The writ petition is, accordingly, disposed of.

JUDGE

Comparing Assistant