

GAHC010114872018



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

Case No. : WP(C)/3683/2018

M/S. ANURADHA ENTERPRISE AND ANR.
NEAR AOC PETROL PUMP GADAIN RAJI
HAFLONG DIST. DIMA HASAO
ASSAM REP. BY ITS SOLE PROPRIETOR SMT. SANGHAMITRA KEMPRAI

2: SMT. SANGHAMITRA KEMPRAI
W/O. SRI DEBOJEET THAOSEN
NEAR AOC PETROL PUMP GADAIN RAJI
HAFLONG
DIST. DIMA HASAO
ASSAM
VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMM. AND SECRETARY TO THE GOVT. OF ASSAM
PHE DEPTT DISPUR
GUWAHATI

2: THE EXECUTIVE ENGINEER
PHE DEPTT.
HAFLONG DIVISION HAFLONG
DIST. DIMA HASAO
ASSAM

3: NORTH CACHAR HILLS AUTONOMOUS COUCIL
REP. BY THE PRINCIPAL SECRETARY HAFLONG
DIST. DIMA HASAO
ASSAM

4: THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HILL AREA DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI -06

Advocate for : MS. M DEVI
Advocate for : SC
P H E appearing for THE STATE OF ASSAM AND 2 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

27.01.2023

Heard Ms. M. Devi, learned counsel for the petitioners. Also heard Shri R. Gogoi, learned Standing Counsel, PHE for the respondent nos. 1 to 3 as well as Shri A. Khanikar, learned Standing Counsel, NCHAC for the respondent no. 4 whereas Ms. S. Sarma, learned State Counsel has appeared for the newly impleaded respondent no. 5 i.e. the Commissioner & Secretary to the Government of Assam, Hills Area Department.

2. The petitioners have approached this Court for a direction for release of a contractual bill of Rs.4,40,000/- connected with supply work order No. PHEE / HFG / TB-31(B) / 2013-14 / T-257 dated 24.05.2013 for supply of "KSB / Kirloskar Make Multistage Centrifugal Pumpset Model 10x100/5, Suction and Delivery size 100mm X 80mm, 250 Mtrs. head discharge capacity 80 M³ / Hr. directly coupled to ABB 90 KW / 125 HP, 2900 RPM Motor Mounted on Common Base Frame". It is the case of the petitioners that in spite of the work being completed in all respects, the payment has not been made and the writ petition is pending since the year 2018.

3. After issuance of notice, the NCHAC has filed the affidavit-in-opposition dated 22.01.2021 wherein the Council has admitted many things. The Council has admitted that though the approval was given by the HAD Ministry in August 2012, owing to urgency, some modifications were made which were approved by the 13th Finance Commission and later on by the Council. It has been stated that it is only due to the lack of funds which are required to be made available by the Hills Area Department, the amount could not be paid. The learned Standing Counsel otherwise submits that the amount involved is admitted and there is no dispute to that aspect. The learned Standing Counsel has also placed on records two numbers of communications dated 20.01.2021 and 13.04.2021 issued by the Principal Secretary, NC Hills Autonomous

Council, Haflong and Addl. Chief Engineer (PHE), Dima Hasao Zone, Haflong respectively whereby the Hills Area Department have been requested to make available the funds to clear the bills under the Department. Amongst the 30 nos. of transfer subject, PHE is also one of those and therefore the role of the Hills Area Department is a significant one.

4. Ms. S. Sarma, learned State Counsel, who appears for the said Department after its impleadment submits that since the amount involved is admitted which is not only reflected in the affidavit filed in this case but also in the communications dated 20.01.2021 and 13.04.2021, necessary directions may be given to the Hills Area Department to do the needful.

5. In view of the above facts and circumstances and also taking into consideration the law laid down on this subject, the instant writ petition is disposed of by directing the Hills Area Department to allot necessary funds to the NCHAC as per the requisition made and reiterated vide communications dated 20.01.2021 and 13.04.2021 as observed above and on such receipt of the funds, the dues of the petitioners which has admitted be released expeditiously.

6. The aforesaid exercise, as directed above of allotting the funds be completed expeditiously and in any case within an outer limit of 3(three) months from today and on such receipt as observed above, the same be released to the petitioners immediately.

7. Copies of the communications dated 20.01.2021 and 13.04.2021 are made part of the records.

8. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant