

GAHC010114872018



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

Case No. : WP(C)/3677/2018

M/S. ANURADHA ENTERPRISE AND ANR.
NEAR AOC PETROL PUMP
GADIAN RAJI
HAFLONG
DISTRICT- DIMA HASAO
PIN 788819
ASSAM. REPRESENTED BY ITS SOLE PROPRIETOR SMT. SANGHAMITRA
KEMPRAI.

2: SMT. SANGHAMITRA KEMPRAI
W/O. SHRI DEBOJEET THAOSEN
NEAR AOC PETROL PUMP
GADAIN RAJI
HAFLONG
DISTRICT- HAFLONG
DISTRICT- DIMA HASAO
PIN- 788819
ASSAM.
VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
PHE DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE ADDITIONAL CHIEF ENGINEER

PHE DEPARTMENT.
3:THE EXECUTIVE ENGINEER
PHE DEPARTMENT
HAFLONG DIVISION
HAFLONG

DIMA HASAO

ASSAM.

4:NORTH CACHAR HILLS AUTONOMOUS COUNCIL

REPRESENTED BY ITS PRINCIPAL SECRETARY

HAFLONG

DIST.- DIMA HASAO

PIN- 788819

ASSAM.

5: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 3 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-275 dated 27.05.2013 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 an analogous matter namely, WP(C)/3683/2018 wherein 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. 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 written instructions dated 21.09.2022 have been issued in this case. It appears from the said instruction that against paragraph 6 of the writ petition, it has been stated that the HAD had issued administrative approval for an amount of Rs.990.91 Lacs (Rupees Nine Crores Ninety Lacs and Ninety One Thousand) vide letter dated 21.08.2012 for implementation of 48 Plan Scheme approved by the High Level Monitoring Committee under the 13th Finance Commission and against this, financial sanction and fund release order had also been issued.

5. In view of the aforesaid stand of the HAD, Assam not only admitted the liability but also regarding approval of the work and release of funds and also in the communications dated 20.01.2021 and 13.04.2021, necessary directions may be given to the authorities to do the needful.

6. 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 and the NCHAC to take immediate steps for release of the contractual bills to due to the petitioners expeditiously.

7. The aforesaid exercise, as directed above be completed expeditiously and in any case within an outer limit of 3(three) months from today.

8. Copies of the communications dated 20.01.2021, 13.04.2021 and written instructions dated 21.09.2022 are made part of the records.

9. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant