

GAHC010117062023



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

Case No. : WP(C)/3140/2023

BISWAJIT BARUAH
S/O- LATE MANIK BARUAH, R/O- AKASH BLOCK, FLAT NO. 201, SUBHAM
HEIGHT, KAHILIPARA ROAD NEAR FORENSIC LABORATORY,
KAHILIPARA, GUWAHATI-19, DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND ADMINISTRATION, DISPUR, GHY-6.

2:THE DEPUTY COMMISSIONER
KAMRUP METROPOLITAN DISTRICT
GHY-6.

3:SUPERINTENDENT OF NAZARAT BRANCH
OFFICE OF THE DEPUTY COMMISSIONER
KAMRUP(M) DISTRICT
GHY-6

Advocate for the Petitioner : MR. M J BARUAH
Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

13.12.2023

Heard Shri MJ Baruah, learned counsel for the petitioner. Also heard Shri S.

Dutta, learned Standing Counsel, Revenue Department for the respondent no. 1 as well as Shri M. Chetia, learned State Counsel for the respondent no. 2 – Deputy Commissioner, Kamrup (M).

2. Considering the subject matter and as agreed to by the learned counsel for the parties, this writ petition is being disposed of at the admission stage itself. This Court has further been informed that the respondent no. 2 - Deputy Commissioner, Kamrup (M) has filed an affidavit-in-opposition on 05.12.2023

3. The subject matter involves a claim for hiring of the vehicle of the petitioner by the respondent authorities. The projected case is that the vehicle of the petitioner, namely, Xylo bearing registration no. AS-01-AR-7171 was hired by the Office of the Deputy Commissioner, Kamrup (M) w.e.f., 08.07.2011 to 30.07.2014. In this regard, a bill of Rs.17,50,000/- (Rupees seventeen lakhs and fifty thousand) has been raised out of which only an amount of Rs.2,00,000/- (Rupees two lakhs) have been paid. Since the said amount was paid way back in the year 2022 and nothing more was paid, the instant writ petition has been filed. Shri Baruah, learned counsel for the petitioner submits that the aforesaid amount is legally entitled to by the petitioner and the same may be directed to be released.

4. Shri Chetia, learned State Counsel, by referring to the affidavit-in-opposition filed on 05.12.2023 through the respondent no. 2 has however submitted that though the claim is not disputed in principle, the admissible amount has not been able to be paid because of immediate lack of funds and for non-fulfillment of certain formalities including budget and FOC from the Government.

5. Shri Dutta, learned Standing Counsel, Revenue Department endorses the

submissions made by the learned State Counsel.

6. This Court has been apprised that matters of non-payment of contractual bills are covered by the decisions of Hon'ble Full Bench of this Court in the case of ***Tamsher Ali & Ors. Vs. State of Assam and Others***, reported in **2008 (4) GLT 1**.

7. Following the aforesaid guidelines laid down in the case of ***Tamsher Ali*** (supra), the instant writ petition is disposed of by directing payment of admissible amount of the bills raised by the petitioner in accordance with the law and the aforesaid guidelines.

JUDGE

Comparing Assistant