

GAHC010118472021



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

Case No. : WP(C)/3866/2021

BAHARUL ISLAM
S/O HASAN ALI
RESIDENT OF VILLAGE AND PO MARAI, PS SIPAJHAR, DIST DARRANG,
ASSAM, 784105

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, WATER
RESOURCE DEPARTMENT, DISPUR GUWAHATI 06, ASSAM

2:THE CHIEF ENGINEER

WATER RESOURCES DEPARTMENT
CHANDMARI
GUWAHATI
ASSAM
781003

3:THE SUPERINTENDING ENGINEER

SOUTHERN ASSAM CIRCLE
WATER RESOURCES DEPARTMENT
CHANDMARI
GUWAHATI 03
ASSAM

4:THE EXECUTIVE ENGINEER

MANGALDAI WATER RESOURCE DIVISION
MANGALDAI
DARRANG

ASSA

Advocate for the Petitioner : MR. P K MAZUMDAR

Advocate for the Respondent : SC. WATER RESOURCE DEPTT.

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
ORDER

15-02-2023

Heard Mr. P.K. Mazumdar, learned counsel for the petitioner and Mr. B. Goswami, learned Additional Advocate General, Assam assisted by Mr. P. Kakoti, learned counsel for all the respondents.

2. The petitioner has claimed that after being awarded a contract work :- *Raising and strengthening of Nonoi embankment B/B from NH 52 to R.K. B/Dyke. [under S.S.S.]* [‘the Contract-Work’ for short] by an work order dated 15.12.2014 [Annexure-1], the petitioner had executed and completed the same successfully to the satisfaction of the respondent authorities. According to the petitioner, the total value of the Contract-Work was Rs. 9,90,978/- [Rupees Nine Lakhs Ninety Thousand Nine Hundred Seventy Eight] and accordingly, he had submitted the final bills for the Contract-Work for an amount of Rs. 9,90,978/- [Rupees Nine Lakhs Ninety Thousand Nine Hundred Seventy Eight]. When despite repeated approaches for disbursal of the said amount the respondent authorities had not taken any discernible action for release of the same, the petitioner has stated to have approached this Court by filing this writ petition seeking, *inter alia*, a direction to the respondent authorities to release the aforesaid amount of Rs. 9,90,978/- [Rupees Nine Lakhs Ninety Thousand Nine Hundred Seventy Eight].

3. In response, the respondent no.2 i.e. the Chief Engineer, Water Resources Department, Assam has filed an affidavit-in-opposition on 22.08.2022. It has been averred therein that the value of the works executed by the petitioner in connection with the Contract-Work, refereed hereinabove, has been found to be Rs. 6,53,991 and not Rs.

9,98,978/-, as claimed by the petitioner. It is further averred that out of the admitted amount of Rs. 6,53,991/- [Rupees Six Lakhs Fifty Three Thousand Nine Hundred Ninety One], an amount of Rs. 1,00,000/- [Rupees One Lakh] has already been disbursed to the petitioner as part-payment, meaning thereby, the total outstanding balance, as on date, is Rs.5,53,991/- [Rupees Five Lakhs Fifty Three Thousand Nine Hundred Ninety One] only.

4. Mr. Goswami, learned Additional Advocate General, Assam has fairly submitted that the amount of Rs.5,53,991/- [Rupees Five Lakhs Fifty Three Thousand Nine Hundred Ninety One] is an admitted liability and the said amount could not be released due to paucity of fund. He has, thus, submitted that the instant case is squarely covered by the Full Bench judgment of this Court, rendered on 29.09.2008 in Writ Appeal No.484/2005 [*Tamsher Ali & Ors. vs. State of Assam & Ors.*], reported in 2008 [4] GLT 1 [FB] and similar other 194 writ petitions and, as such, the respondent authorities will process the claim of the petitioner in light of the principles enunciated in the aforesaid judgment.

5. Mr. Mazumdar, learned counsel for the petitioner has submitted that the respondent authorities may be directed to take immediate action for disbursal of the amount of Rs.5,53,991/- [Rupees Five Lakhs Fifty Three Thousand Nine Hundred Ninety One] immediately, in terms of the principles laid down in *Tamsher Ali* [supra].

6. In view of the above submissions made by the learned counsel for the parties, this writ petition is disposed of at the admission stage itself with a direction to the respondent no.2 i.e. the Chief Engineer, Water Resources Department, Assam, to examine the claim of the writ petitioner within a period of 45 days from the date of receipt of a certified copy of this order and then, the concerned respondent authorities will process the claim of the petitioner as regards disbursal of Rs.5,53,991/- [Rupees Five Lakhs Fifty Three Thousand Nine Hundred Ninety One] in accordance with law and also in the light of the directions contained in *Tamsher Ali* [supra].

7. The petitioner after obtaining a certified copy of this order shall place the same before the respondent no.2 i.e. the Chief Engineer, Water Resources Department, Assam for doing the needful from his end.

8. The writ petition stands disposed of in terms of the above directions.

9. No order as to cost.

JUDGE

Comparing Assistant