

GAHC010122842021



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

Case No. : WP(C)/4075/2021

BIRAJ BORUAH
S/O LATE MOHI BORUAH
RESIDENT OF MORAN, PO MORAN, DIST DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC WORKS DEPARTMENT, DISPUR, GUWAHATI 06

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI 06

3:THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT (ROAD) ASSAM
CHANDMARI
GUWAHATI 03

4:THE SUPERINTENDENT ENGINEER

PUBLIC WORKS DEPARTMENT(R) DIBRUGARH ROAD CIRCLE
DIBRUGARH
ASSAM 786001

5:THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPARTMENT
DIBRUGARH RURAL ROAD DIVISION
DIBRUGARH
786001

6:THE EXECUTIVE ENGINEER

PWDR
DIBRUGARH
LAHOWAL
MORAN AND TINGKONG TERRITORIAL ROAD DIVISION
DIBRUGARH
78600

For the Petitioner(s) : Mr. H. K. Nath, Advocate

For the Respondent(s) : Mr. B. Choudhury, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 23.08.2023

1. The case of the Petitioner herein is that the Petitioner is aggrieved by the inaction on the part of the Respondent Authorities in making payment of the bills of the Petitioner.
2. The case of the Petitioner herein is that the Petitioner has participated in the tender process for Special Repair (S/R) to Hatkhola Road in Tenakhat Rural Road Sub-Division under Dibrugarh Rural Road Division for 2007-08 providing earth work and gravelling from 1st to 3rd KM. Being the successful bidder, the Petitioner was issued a formal work order bearing No.CE/DEV/TB/297/07-08/8 dated 12.11.2008 by the Chief Engineer, PWD (Roads). In the said formal work order, the tender value was quoted as Rs.25,00,000/-. It was further mentioned in the formal work order that the work be completed within a period of 3 (three) months from the date of issue of formal work order.
3. It is the case of the Petitioner that the Petitioner successfully executed the

works and accordingly after completion of the work necessary measurement was taken by the concerned Respondent authorities also and the bill was prepared by the Assistant Executive Engineer, Tengakhat Rural Road Sub-Division vide SD bill No.TK.FF.297 dated 12.12.2008 for an amount of Rs.24,99,732/-. It is the further case of the Petitioner that the Petitioner had submitted various representations to the Respondent Authorities for release of the amount however the said amount of Rs.24,99,732/-is still pending, for which the Petitioner has approached this Court under Article 226 of the Constitution.

4. Mr. B. Choudhury, the learned Standing counsel appearing on behalf of the PWD submits that as to whether the Petitioner has completed the work in terms with the work order in question is a subject matter of verification which needs to be carried out by the Respondent Authorities and it is only on the basis of such verification, the actual entitlement of the Petitioner could be ascertained.

5. Upon hearing the learned counsels for the parties, this Court is of the opinion that the interest of justice would be met if a direction is given to the Respondent Authorities to verify as to whether the Petitioner has completed the work in accordance with the formal work order mentioned hereinabove and thereupon to ascertain the exact amount to which the Petitioner is entitled to, if any.

6. It is under such circumstances, this Court therefore disposes of the instant writ petition thereby directing the Respondent Authorities more particularly the Respondent Nos. 2, 3 and 5 to verify the entitlement of the Petitioner on the basis of the tender conditions as well as the formal work order which was issued in favour of the Petitioner and as to whether the Petitioner has completed the work in question. Upon verification, if it is found that the Petitioner is entitled to any amount, the same should be paid to the Petitioner in terms with the

judgment of the Full Bench of this Court in the case of ***Tamsher Ali and Others Vs. State of Assam and others reported in 2008 (4) GLT 1.*** The said verification be completed within a period of 1 (one) month from the date a certified copy of the instant order is served upon the Respondent No.1.

7. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant