

GAHC010128072018



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

Case No. : WP(C)/3955/2018

ABDUL MATIN AHMED AND ANR.
S/O- LATE JALALUDDIN, PROP OF M/S JUPITER ENTERPRISE, VILL-
CHENIBARI, P.O- BHERBHERI BIL, P.S- DHULA, DIST- DARRANG, ASSAM,
PIN- 784525

2: RAHMAT ALI
S/O- ABDUL BAREK
PROP OF M/S DARRANG NURSERY
VILL- CHENIBARI
P.O- BHERBHERI BIL
P.S- DHULA
DISTT- DARRANG
ASSAM
PIN- 78452

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPTT, DISPUR, GUWAHATI-
781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
FINANCE DEPTT
DISPUR
GUWAHATI- 781006

3:THE DEPUTY COMMISSIONER CUM DISTRICT PROGRAMME
COORDINATOR
DARRANG
P.O- MANGALDAI
DIST- DARRANG
ASSAM

PIN- 784125

4:THE PROJECT DIRECTOR(PD)

DRDA

DARRANG

P.O- MANGALDAI

DIST- DARRANG

ASSAM

PIN- 784125

5:THE BLOCK DEVELOPMENT OFFICER CUM PROGRAM OFFICER

MGNREGA

KALAIGAON DEVELOPMENT BLOCK

P.O- KALAIGAON

DIST- DARRANG

ASSAM

PIN- 784525

6:THE JUNIOR ENGINEER

KALAIGAON DEVELOPMENT BLOCK

P.O- KALAIGAON

DIST- DARRANG

ASSAM

PIN- 784525

7:THE SECRETARY

BHERBHERIBIL GAON PANCHAYAT

P.O- BHERBHERIBIL

DIST- DARRANG

ASSAM

PIN- 784525

8:THE SECRETARY

SHYAMTILA GAON PANCHAYAT

P.O- SHYAMTILA

DIST- DARRANG

ASSAM

PIN- 784525

9:THE SECRETARY

PANBARI GAON PANCHAYAT

P.O- PANBARI

DIST- DARRANG

ASSAM

PIN- 78452

Advocate for the Petitioner : MR. S K ROY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 17-07-2023

Heard Mr. S.K. Roy, learned counsel for the petitioners; Mr. N.K. Dev Nath, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 5, 6, 7, 8 & 9; Mr. R.M. Baruah, learned counsel representing Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2; and Ms. S Sarma, learned Junior Government Advocate, Assam for the respondent no. 3.

2. The two petitioners have claimed that they are proprietors of M/s Jupitar Enterprise and M/s Darrang Nursery respectively and they are in the business of supplying bricks, cement, chips, sand, nail, etc. In the course of their business, the petitioners were issued supply orders for supply of bricks, cement, chips, sand, nail, etc. by the respondent authorities on different dates under various schemes of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 [MGNREGA] under the Kalaigaon Development Block, Kalaigaon, District – Darrang, as indicated in the Table contained in their joint Representation dated 08.05.2018, annexed as Annexure – III to the writ petition. It is the further case of the petitioners that despite making supplies of the materials, as ordered by the supply orders to supply bricks, chips, sand, nail, etc., and submission of final bills against such supplies made, the petitioners have not been paid the final bill amounts to the extent of ₹ 18,35,141/- till the date of institution of the writ petition. The writ petition has been instituted by the petitioners seeking *inter alia* directions to the respondent authorities, more particularly, to the respondent no. 3 to consider the Representation dated 08.05.2018 submitted by the petitioners and to release the pending bill amount.

3. An affidavit-in-opposition has been filed on behalf of the respondent no. 3 on 10.08.2019. In paragraph no. 4 of the said affidavit-in-opposition, the respondent no. 3 has averred as under :-

4. That with regard to the statements made in paragraph 2 of the writ petition the deponent begs to state that an application jointly signed by Abdul Matin Ahmed, Proprietor of Jupitar Enterprise and Rahmat Ali, Proprietor of Darrang Nursery was received in the office of the deponent on 08.05.2018 claiming their outstanding amount of ₹ 18,35,141/- due for supply of materials for implementation of schemes under DRDA, Darrang. On receipt of the application the Project Director, DRDA, Darrang was requested for action vide office letter no. DPL.56/2013/Pt.215 dated 16.05.2018. As per report of the Block Development Officer, Kalaigaon Development Block, payment pertaining to some schemes was made to the petitioners. According to the Block Development Officer, Kalaigaon Development Block an amount of ₹ 5,01,155/- is yet to be paid to the petitioners. He further, informed that demand has been placed. Remaining payment will be made as and when fund received for the same purpose.

4. Ms. Sarma, learned Junior Government Advocate, Assam has submitted that in the above stand taken by the respondent no. 3 in the counter affidavit, the writ petition can be disposed of at this stage with a direction to the respondent authorities, more particularly, the respondent no. 3 to examine and verify the claim of the petitioners and if after such examination and verification, the petitioners are found entitled to ₹ 5,01,155/- less any amount paid in the meantime, if any, the same may be directed to be disbursed in terms of the directions made in the decision of a full bench of this Court in **Writ Appeal No. 484/2005 [Tamsher Ali and Ors. vs. State of Assam and Ors.]**, and similar other 194 writ petitions, reported in 2008 [4] GLT 1 [FB].

5. Mr. Roy, learned counsel for the petitioners has agreed to the submissions made by Ms. Sarma, learned Junior Government Advocate, Assam.

6. In view of the broad consensus arrived at by the parties in the afore-stated manner, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 3 to examine and verify the claim of the petitioners, as indicated in paragraph

4 of the counter affidavit quoted above, and if after such examination and verification, the petitioners are found entitled to an amount of ₹ 5,01,155/- or any other amount after deduction of any amount paid in the meantime, the respondent no. 3 shall take necessary steps for disbursal of such entitled amount to the petitioners in terms of the decision in **Tamsher Ali** [supra]. It is accordingly ordered. The petitioners shall furnish a certified copy of this order along with a copy of the writ petition, W.P.[C] no. 3955/2018 with annexures and a copy of the counter affidavit filed by the respondent no. 3 at the office of the respondent no. 3. On receipt of the same, the respondent no. 3 shall process the case for disbursal in the terms of direction in **Tamsher Ali** [supra] in an expeditious manner, preferably within a period of 3 [three] months from the date of such receipt.

7. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant