

GAHC010143282021



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

Case No. : WP(C)/4819/2021

JYOTIRMOY SARMAH
S/O LATE PRAMOD CHANDRA SARMA
RESIDENT OF WARD NO. 10, BHABERGHAT, PO AND PS MANGALDAI, DIST
DARRANG, ASSAM 784125

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, SOIL CONSERVATION DEPARTMENT, DISPUR GUWAHATI 06
ASSAM

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
SOIL CONSERVATION DEPARTMENT
DISPUR GUWAHATI 06 ASSAM

3:THE DIRECTOR OF SOIL CONSERVATION
ASSAM
R.G BARUAH ROAD
GUWAHATI 05
ASSAM

4:THE DIVISIONAL OFFICER

DARRANG SOIL CONSERVATION DIVISION
MANGALDAI
ASASM 784125

5:THE RANGE OFFICER

DARRANG SOIL CONSERVATION DIVISION

MANGALDAI
ASASM 78412

Advocate for the Petitioner : MR. P K MAZUMDAR

Advocate for the Respondent : SC, SOIL CONSERVATION DEPTT.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

31.05.2023

Heard Mr. P. K. Mazumdar, the learned counsel for the petitioner and Ms. R. S. Deuri, the learned counsel appearing on behalf of the Soil Conservation Department, i.e. the respondent Nos.1 to 5.

2. The case of the petitioner herein is that pursuant to a notice inviting tender in the Soil Conservation Department under the Scheme “**Protective Afforestation Plantation at Gandhia Pathar (Part-II) under SOPD-G**” during the financial year 2019-20, the petitioner being found eligible was issued a work order on 14.08.2019. It is the case of the petitioner that the petitioner completed the said order and the respondent No.4, vide the letter No.4 dated 28.07.2020, issued completion certificate to the petitioner.

3. At this stage, it is relevant to take note of that the said completion certificate is enclosed as Annexure-2 to the writ petition wherein it is seen that the percentage progressed is shown as 80%. The petitioner claims entitlement to an amount of Rs.13,30,000/- for which the petitioner submitted the bill, but the respondents having not paid the bill amount.

The petitioner therefore has approached this Court seeking for a writ thereby directing the respondent authorities to pay the due bill amount to the petitioner amounting to Rs.13,30,000/-.

4. Ms. R. S. Deuri, the learned counsel appearing on behalf of the Soil Conservation Department submitted that she has received the parawise comments which have been placed before this Court. It has been mentioned in the said parawise comments that the time allotted for completion of the work was 45 days from the date of issue of the work order. Therefore, the work should have been completed by 13.09.2019 but the work was done upto 75% only as per the completion report issued by the Director of Divisional Officer, Darrang Soil Conservation (Annexure-2). It is further stated that as per the 75% completion report, the bill value comes to Rs.9.975 lakhs. Accordingly, the Divisional Officer, Darrang, Soil Conservation Division, Mangaldai has submitted the proposal for release of the payment on 06.07.2022. But due to non-completion of 100% work and due to shortage of budget provision during the financial year 2022-23, the proposal could not be processed. It was further mentioned that the payment would be done subject to revalidation of the administrative proposal. Further, it is mentioned that due to timely non-completion of the work, the remaining 25% of the project had been already foreclosed by the Soil Conservation Department.

5. A perusal of the Annexures to the said parawise comments further shows the communication dated 06.07.2022 whereby the Divisional Officer, Darrang Soil Conservation Division has requested the Director of Soil Conservation for the aforesaid demands and ceiling of fund in so far as the petitioner is concerned to the extent of Rs.9.975 lakhs. Therefore,

from the stand which has been taken by the Soil Conservation Department, there is an admission to the effect that there is an entitlement of the petitioner to the amount of Rs.9.975 lakhs. However, on account of shortage of budget provision during the financial year 2022-23, the same could not be progressed. It has also been mentioned that the payment can be made subject to reverification of the said administrative approval.

6. Considering the above, this Court, therefore, disposes of the instant writ petition with a direction to the respondent authorities to pay the amount of Rs.9.975 lakhs to the petitioner after making necessary verification as regards the entitlement of the petitioner.

7. The said payment be made within a period of 6 (six) months from the date a certified copy of the instant order is served upon the respondent No.3.

8. The instructions so submitted by the learned counsel appearing on behalf of the respondent Nos.1 to 5 is kept on record and marked with the letter "X".

JUDGE

Comparing Assistant