

GAHC010151512022



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

Case No. : WP(C)/5067/2022

KHAGEN KONCH
S/O SONARAM KONCH, R/O VILL-RAM MANDIR, WARD NO. 3, P.O. AND
P.S.-DHEMAJI, DIST-DHEMAJI

VERSUS

THE GOVT. OF ASSAM AND 3 ORS.
REPRESENTED HEREIN BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, IRRIGATION DEPARTMENT, DISPUR, GUWAHATI, ASSAM-781006
2:AS PER ORDER DATED 22.08.2022
RESP. NO. 2 IS STRUCK OFF.
3:THE CHIEF ENGINEER (M.I.) IRRIGATION
GUWAHATI
ASSAM-781003
4:THE EXECUTIVE ENGINEER
DHEMAJI DIVISION (IRRIGATION)
DHEMAJI-78705

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 07-08-2023

Heard Mr. P.H. Konwar, learned counsel for the petitioner and Mr. N. Upadhyay, learned
Standing Counsel, Irrigation Department for respondent nos. 1, 3 and 4.

2. The petitioner is a registered Contractor under the Irrigation Department, Government of Assam. It is the case of the petitioner that after a tender process, a contract-work : "River Training Works at Korah River under TSP for the year : 2015-16" ['the Contract-Work', for short], Dhemaji Division [Irrigation], Dhemaji was awarded to the petitioner in the year 2016. Administrative approval for the Contract-Work was granted by the State Government in the Irrigation Department on 01.03.2016 and the respondent no. 2 granted the technical sanction for the Contract-Work on 02.06.2016. The formal work order for a contract value of ₹ 59,41,239/- was issued in favour of the petitioner on 25.04.2016.

3. It is the claim of the petitioner that after issuance of formal work order, he proceeded to execute the Contract-Work. In the meantime, the State Government issued a revised administrative approval for the Contract-Work on 20.07.2017. The petitioner has claimed that he had executed the Contract-Work to the extent of 100% and upon inspection, the respondent no. 3 had issued a Physical Inspection Report certifying that the Contract-Work was found completed to the extent of 100%. After completion of the work, the petitioner has submitted his final bills in February, 2007 for an amount of ₹ 59,35,480/-. The petitioner was disbursed 50% of the final bill amount i.e. ₹ 29,67,740/-. As the remaining 50% of the final bill amount i.e. ₹ 29,67,640/- was not disbursed to the petitioner despite repeated approaches, the petitioner has preferred the instant writ petition seeking *inter alia* a direction to the respondent authorities to release the final bill amount against the Contract-Work.

4. Mr. Upadhayay, learned Standing Counsel, Irrigation Department has submitted, on instruction, that there is no dispute as regards the claim of the petitioner that an amount of ₹ 29,67,740/- is yet to be disbursed against the Contract-Work. He has further submitted that the writ petition can be disposed of with a direction to the respondent no. 3 i.e. the Chief Engineer [M.I.] Irrigation, Assam to examine the claim of the petitioner and thereafter, to process the claim of the petitioner to the extent of admitted liability, in terms of the principles laid down in 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.

5. 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. 3 i.e. the Chief Engineer [M.I.] Irrigation, Assam to examine the claim of the petitioners with regard to his claim of ₹ 29,67,740/- within a period of 45 [forty-five] days from the date of receipt of a certified copy of this order and then, the respondent authorities will process the claim of the petitioner to the extent of the admitted liabilities for disbursement in accordance with law and in the light of the directions contained in **Tamsher Ali** [supra].

6. The petitioner after obtaining a certified copy of this order shall place the same before the respondent no. 3 i.e. the Chief Engineer [M.I.] Irrigation, Guwahati, Assam for doing the needful from his end.

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

JUDGE

Comparing Assistant