

GAHC010152562021



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

Case No. : WP(C)/5081/2021

DIPANKAR ROY
S/O RAMESH CH. ROY
R/O LAKHIPUR TOWN
WARD NO. 4
DIST. CACHAR
ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
DISPUR
GUWAHATI 781006
ASSAM.

2:THE DIRECTOR

MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI 781006
ASSAM.

3:THE SUB DIVISIONAL OFFICER (CIVIL) AND D.D.O. OF LAKHIPUR
MUNICIPAL BOARD

CACHAR
ASSAM
PIN 788103
4:THE CHAIRMAN

LAKHIMPUR MUNICIPAL BOARD
CACHAR
ASSAM
PIN 788103
5:THE DIRECTOR

TOWN AND COUNTRY PLANNING
DISPUR
GUWAHATI
ASSAM.
6:THE DEPUTY COMMISSIONER

CACHAR DIST.
ASSAM.
7:THE COMMISSIONER AND SECRETARY GOVT OF ASSAM
FINANCE DEPARTMENT
ASSAM.

Advocate for : MR S BORTHAKUR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

27.01.2023

Heard Shri S. Borthakur, learned counsel for the petitioner, who is aggrieved by non-payment of the balance amount of the contractual bills by the Lakhipur Municipal Board in the district of Cachar. The learned counsel has submitted that on 30.03.2013, the said Municipal Board had allotted work of up-gradation of Physical Infrastructure and Service Delivery of Assam 4th State Finance Commissioner for the year 2011-12 for Lakhipur Municipal Board in which the petitioner was selected for construction of Ghat at Steamer Ghat for which the work order was issued on 30.03.2013. As per the petitioner, the construction works were completed in all respects and an amount of Rs.9,65,062/- was raised as bill, out of which 50% has been paid in the year 2013 itself. However, the rest 50% have not been paid for which the present writ petition has been instituted.

2. Shri Borthakur, learned counsel for the petitioner has submitted that the Deputy Commissioner, Cachar has filed an affidavit-in-opposition in which however, it has been submitted that the petitioner could complete only 75% of the work.

3. Shri B. Talukdar, learned Senior Counsel representing the State submits that on principle, there is no dispute to the claim of the petitioner and it is only because of the lack of funds allotted to the Lakhipur Municipal Board that the amount has not been able to be cleared. However, the entitlement of the petitioner has to be limited to be extent of work done i.e. 75%. Shri B. Deuri, learned State Counsel who has appeared for the Lakhipur Municipal Board submits that the Board is an elected body under a statute and is dependent on the Urban Development Department and Finance Department for its day to day expanses. He submits that in any case, 50% of the billed amount has been paid to the petitioner.

4. Shri Borthakur, learned counsel for the petitioner on the aspect of the extent of the work done fairly submits that since the admitted case is 75% of the work done, in this writ petition, he will stick his claim to the admitted amount for 75% of the work.

5. In view of the above and particularly after noting that the execution of the work has been admitted by the respondent to be 75% coupled with the fact that the 50% of the billed amount has already been paid, this Court directs that the Urban Development Department and the Finance Department of the State of Assam to allot necessary funds to the Lakhipur Municipal Board in the district of Cachar so that the remaining bills of the petitioner be cleared. It is however clarified that the amount to be released cannot exceed the amount for the total works done i.e. 75%.

6. The aforesaid exercise which has been directed to be undertaken be done expeditiously, in any case, within an outer limit of 4(four) months from today.

7. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant