

GAHC010190792022



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

Case No: WP(C)/6214/2022

SARAT BORA AND ANR
(PRESIDENT OF NAVA PRAYASH SELF HELP GROUP)
S/O- LATE GHANA KANTA BORA

R/O- NO. 2 KAKI MORIKALONG

P.O.- SANKARPUR

P.S.- KAKI

DISTRICT- HOJAI
ASSAM

PIN- 782446.

2: HIRANYA BORA
(SECRETARY OF NAVA PRAYASH SELF HELP GROUP)
S/O- PRABHAT CHANDRA BORA

R/O- NO. 2 KAKI MORIKALONG

P.O.- SANKARPUR

P.S.- KAKI

DISTRICT- HOJAI
ASSAM

PIN- 782446.
VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.

OF ASSAM
PUBLIC HEALTH ENGINEERING DEPARTMENT
DISPUR
GUWAHATI-6
ASSAM.

2:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
HENGRABARI
ASSAM
GUWAHATI-36.

3:THE MEMBER SECRETARY
D.W.S.C.- CUM- EXECUTIVE ENGINEER (PHE)

NAGAON DIVISION
ASSAM
PIN- 782001.

4:THE MEMBER SECRETARY
D.W.S.C.- CUM- EXECUTIVE ENGINEER (PHE)

HOJAI DIVISION
DISTRICT- HOJAI
ASSAM
PIN- 782435.

5:THE MEMBER SECRETARY
A.P.W.S.C.- CUM- ASSISTANT EXECUTIVE ENGINEER (PHE)

LUMDING SUB-DIVISION
DISTRICT- HOJAI

ASSAM
PIN- 782447.

6:THE MEMBER SECRETARY
G.W.S.C.- CUM- SECTION OFFICER (PHE)

I/C
KAKI / LUMDING SECTION

DISTRICT- HOJAI
ASSAM

PIN- 782446.

7:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-6
ASSAM.

Advocate for : MR. K I MAZUMDER

Advocate for : SC

P H E appearing for THE STATE OF ASSAM AND 5 ORS

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 19.06.2023

Heard Mr. K.I. Mazumder, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned standing counsel for the PHE Department.

2. The petitioners project themselves to be the President and Secretary of a registered self help group under the name of Nava Prayash Self Help Group.

3. The petitioners were given work orders to carry out work relating to construction of "Individual Household Latrine" under "Total Sanitation Campaign Scheme (TSC) at Thaisupar Gaon Panchayat and Derapathar Gaon Panchayat". On completion of the work, bills for the amount of Rs.13,20,900/- (Rupees thirteen lakh twenty thousand nine hundred only) was made against 7 numbers of work orders, out of which part payments were made by the authorities. However, a sum of Rs.4,89,950/- (Rupees four lakh eighty nine thousand nine hundred fifty only) remains unpaid to the petitioners and accordingly, the present writ petition has been filed under Article 226 of the Constitution of India claiming principal amount as well as 18% interest per annum.

4. In this case, notice of motion was issued by order dated 23.09.2022. However, till date, no affidavit-in-opposition has been filed. The learned standing counsel for the PHE Department has submitted that he has received instruction, whereby the respondent authorities have not disputed the claim of the petitioners and it is submitted that requisition has already been made before the Chief Engineer, PHE to provide fund, which is still awaited.

5. Having noted that the work done by the petitioner is not in dispute, neither the respondents are disputing the quantum of the unpaid bill claimed by the petitioners, under such circumstances, by invoking the *doctrine of non traverse*, the Court is inclined to hold that the respondent authorities have admitted the claim of the petitioners towards the unpaid bills.
6. Accordingly, the Court is inclined to allow this writ petition by directing the Chief Engineer, PHE (respondent no.2) to have the claim of the petitioners enquired through the competent officers under him and if payment is found due, to release the same.
7. The entire exercise of enquiry and release of payment due to the petitioners be made within an outer period of 3 (three) months from the date on which certified copy of this order is produced before the respondent no.2.
8. Writ petition stands allowed to the extent as indicated above.
9. Parties are left to bear their own cost.

JUDGE

Comparing Assistant