

GAHC010193072022



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

Case No. : WP(C)/6286/2022

NABAJYOTI DUTTA
SON OF BIPIN DUTTA,
R/O- KARANGA KAMAR HAZARIKA GAON,
JORHAT, P.O.- KARANGAKHAT GAON,
DIST- JORHAT, ASSAM, PIN- 785001.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE PUBLIC HEALTH
ENGINEERING DEPARTMENT, GOVT. OF ASSAM, DISPUR, GUWAHATI-6.

2:COMMISSIONER TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI-6.

3:CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
HENGRABARI GUWAHATI- 781036.

4:EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
JORHAT DIVISION
JORHAT- 785001.

5:ASSISTANT EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
JORHAT DIVISION
JORHAT- 785001.

6:ASSISTANT ENGINEER/ JUNIOR ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
JORHAT DIVISION
JORHAT- 785001

Advocate for the Petitioner : MR. N J GOGOI
Advocate for the Respondent : SC, P H E

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
ORDER

27.03.2023

Heard Mr. N.J. Gogoi, learned counsel for the petitioner and Mr. S.M. Hassan, learned Standing Counsel, Public Health Engineering [PHE] Department for the respondent nos. 1 & 3 - 6; and Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2.

2. In this writ petition instituted under Article 226 of the Constitution of India, the petitioner has claimed that he was awarded a contract-work viz. "Installation of Ring Well fitted with SHP including construction of platform, drain, soakpit, etc. in Angangwadi centers under program NRDWP for the year 2012-2013" ['the Contract-Work' for short] by an Work Order under Memo No. PHEE/JOR/W-42[A]/6462 dated 11.11.2013 [Annexure-1]. According to the petitioner, after completion of the Contract-Work, the respondent no. 6 had prepared a statement under his seal and signatures [Annexure-2] stating that an amount of Rs. 2,41,715/- had remained outstanding against the Contract-Work completed by the petitioner. The petitioner has further averred that when despite repeated approaches for disbursal of the said amount the respondent authorities had not taken any discernible action for release of the same, petitioner is compelled to approach this Court by this writ petition seeking *inter alia* a direction to the respondent authorities to disburse/release the said amount of Rs. 2,41,715/-.

3. Mr. Hassan, learned Standing Counsel, PHE Department has submitted that though the Statement [Annexure-2] prepared by the respondent no. 6 has reflected about the amount of Rs. 2,41,715/-, the same has not yet been examined and admitted by the Head of the Department i.e. the Chief Engineer, PHE, Assam i.e. the respondent no. 3. Submitting so, Mr. Hassan has further submitted that the writ petition may be disposed of with a direction to the

respondent no. 3 to examine the claim of the petitioner and if after such examination, any amount is found due, to disburse the claim of the petitioner in terms of the direction contained in 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.

4. Mr. Gogoi, learned counsel for the petitioner has submitted that the respondent authorities may be directed to take action to disburse of the amount of Rs. 2,41,715/- immediately in terms of the principles laid down in *Tamsher Ali* [supra].

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, Public Health Engineering [PHE] Department, Assam to examine and verify the claim of the petitioner within a period of 45 days from the date of receipt of a certified copy of this order and if after such examination and verification, any amount is found due to the petitioner in respect of the Contract-Work, then the concerned respondent authorities will process the claim of the petitioner as regards disbursement of Rs. 2,41,715/- 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, Public Health Engineering [PHE] Department, Assam for doing the needful from his end.

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

JUDGE

Comparing Assistant