

GAHC010194212022



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

Case No. : WP(C)/6382/2022

SUJIT KR KHOUND
S/O- CHENA RAM KHOUND,
R/O- DANDI NATH KALITA PATH,
KAMARCHUBURI, TEZPUR,
DISTRICT- SONITPUR, ASSAM- 784001.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
DEPARTMENT OF MUNICIPAL ADMINISTRATION,
DISPUR, GUWAHATI- 78006,
ASSAM.

2:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006
ASSAM.

3:THE DIRECTOR
DIRECTORATE OF MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI- 781006
ASSAM.

4:THE ADDITIONAL DEPUTY COMMISSIONER
SONITPUR
TEZPUR- 784001
ASSAM.

5:THE TEZPUR MUNICIPAL BOARD

REPRESENTED BY THE CHAIRPERSON
TEZPUR MUNICIPAL BOARD
POST OFFICE- TEZPUR- 784001
ASSAM.

6:THE EXECUTVE OFFICER
TEZPUR MUNICIPAL BOARD
POST OFFICE- TEZPUR- 784001
ASSAM.

7:THE CHAIRPERSON
TEZPUR MUNICIPAL BOARD
POST OFFICE- TEZPUR- 784001
ASSAM.

8:THE ASSISTANT ENGINEER
TEZPUR MUNICIPAL BOARD
POST OFFICE- TEZPUR- 784001
ASSAM.

9:THE TREASURY OFFICER
SONITPUR
THE OFFICE OF THE TREASURY OFFICER
TEZPUR- 784001
ASSAM

Advocate for the Petitioner : MS PADMINI BARUA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 29-03-2023

Heard Ms. P. Baruah, learned counsel for the petitioner; Mr. R. Talukdar, learned Junior Government Advocate, Assam for the respondent nos. 1, 3 & 4; and Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent nos. 2 & 9.

2. As per the order dated 09.01.2023 of the Lawazima Court, notices were deemed to be served upon the respondent no. 5-9. But, none has appeared for the said respondents despite service of notices.

3. It is the case of the petitioner that pursuant to a bidding process initiated by a tender notice being Tender No. TM/PWD/Paver Road/2019-20/1/1344 dated 21.02.2020 published by the respondent no. 7 for a contract work :- "Improvement of Polofield Road [from Polofield Tiniali to Satsang Mandir]" ['the Contract-Work', for short], the petitioner emerged as the successful bidder and a Letter of Acceptance dated 06.07.2020 was issued to him. The Administrative Approval for the Contract-Work was granted vide Administrative Approval no. AA/MDB-2019-20[i]-249 on 13.02.2020 for an amount of ₹ 26,45,500/-. The Technical sanction for the Contract-Work was granted on 06.10.2020. As the petitioner emerged successful in the bidding process, subsequent to the Letter of Acceptance dated 06.07.2020, he was awarded the Contract-Work vide Work Order no. TM/PWD/Pavers Road/2019-20/01/371 dated 04.09.2020. On being awarded the Contract-Work, the petitioner proceeded to execute the Contract-Work and completed the same to the satisfaction of the respondent Tezpur Municipal Board authorities. After carrying out an inspection of the Contract-Work, the respondent no. 6 had submitted a Progress Report [Page 24 of the case papers]. As per the Progress Report, the date of commencement of the Contract-Work was 15.09.2020 and the date of its completion was 08.10.2020. It was certified by the respondent no. 6 in the Progress Report that the Contract-Work was physically verified by him and the same was found completed to the extent of 100% as per the specification, drawing and tender agreement. As per the Progress Report, the contract value of the Contract-Work was ₹ 23,75,172/-. Out of ₹ 23,75,172/-, the respondent authorities had

disbursed only an amount of ₹ 11,87,586/- on 01.04.2021. The petitioner has projected that when despite repeated approaches to the respondent authorities did not result in disbursement of the remaining 50% of the contractual dues i.e. ₹ 11,87,586/-, the petitioner has stated that he is compelled to approach this Court by this writ petition seeking inter alia a direction to the respondent authorities to disburse the remaining amount of ₹ 11,87,586/-.

4. Mr. Talukdar, learned Junior Government Advocate, Assam and Mr. Chaliha, learned Standing Counsel, Finance Department have, in unison, submitted that the documents annexed to the writ petition prima facie go to indicate that the petitioner had successfully executed the Contract-Work. They have further submitted that it still needs further examination and verification at the end of the respondent authorities and if after such examination and verification, any amount is found due to the petitioner, the same would be disbursed.

5. Ms. Baruah, learned counsel for the petitioner has submitted that the respondent no. 6 had already submitted a proposal to the respondent no. 3 vide letter no. TM/PWD/Paver Road/2021-22/01/345 dated 13.09.2021 requesting release of the balance amount i.e. 50% of the bill amount of the Contract-Work in question and the respondent no. 3 has not considered and disbursed the remaining balance amount of the petitioner's contractual dues till date, despite receipt of the proposal in the year 2021.

6. Mr. Talukdar and Mr. Chaliha have conjointly submitted that as it can be inferred from the letter no. TM/PWD/Paver Road/2021-22/01/345 dated 13.09.2021 that the proposal regarding release of the balance amount i.e. 50% is pending at the end of the respondent no. 3, the writ petition can be disposed of at this stage with a direction to the respondent authorities, more particularly,

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

7. Having regard to the submissions of the learned counsel for the parties, I am of the considered view that instead of keeping this writ petition pending and considering the fact that the proposal regarding release of the 50% of the balance amount is pending at the end of the respondent no. 3, this writ petition is disposed of with a direction to the respondent authorities, more particularly, the respondent no. 3 to consider the claim of the petitioner as regards 50% of the contractual dues i.e. ₹ 11,87,586/- and if after such examination, the amount of ₹ 11,87,586/- or any other amount is found due to the petitioner against the Contract-Work, the same be disbursed as expeditiously as possible, preferably within a period of 3 [three] months from the date of receipt of a certified copy of this order by the petitioner at the office of the respondent no. 3.

8. This order disposes of the writ petition.

JUDGE

Comparing Assistant