

GAHC010208292022



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

Case No. : WP(C)/6733/2022

FATIMA YUVA SELF HELP GROUP
REPRESENTED BY ITS SECRETARY, NIHAR RANJAN NATH, AGE-54 YEARS,
S/O NIKHIL CHANDRA NATH, R/O VILL- OKSEK HATHIBANDHA, P.O.-
CHODHURY BAZAR, P.S.-MURAJHAR, DIST-HOJAI, ASSAM, PIN-782439

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, PUBLIC
HEALTH AND ENGINEERING (P.H.E.) DEPARTMENT, DISPUR, GUWAHATI-
06

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-06

3:THE CHIEF ENGINEER
PUBLIC HEALTH AND ENGINEERING DEPARTMENT
HENGRABARI
GUWAHATI-781006

4:THE MEMBER SECRETARY
DISTRICT WATER AND SANITATION COMMITTEE (D.W.S.C.)
CUM EXECUTIVE ENGINEER (PHE)
HOJAI DIVISION
DIST- NAGAON
ASSAM

5:THE MEMBER SECRETARY
DISTRICT WATER AND SANITATION COMMITTEE (D.W.S.C.)

CUM EXECUTIVE ENGINEER (PHE)
NAGAON DIVISION
DIST- HOJAI
ASSAM

6:THE MEMBER SECRETARY
ANCHALIK PANCHAYAT WATER AND SANITATION COMMITTEE
(A.P.W.S.C.)
CUM ASSISTANT EXECUTIVE ENGINEER (P.H.E.)
LUMDING SUB-DIVISION
DIST- HOJAI
ASSAM
PIN-782442

7:THE MEMBER SECRETARY
GAON PANCHAYAT WATER AND SANITATION COMMITTEE (G.W.S.C.)
CUM SECTIONAL OFFICER (P.H.E.)
KAKI SECTION/ASSISTANT EXECUTIVE ENGINEER
KAKI SECTION
DIST- HOJAI
ASSAM
PIN-78242

Advocate for the Petitioner : MR M Z SHAH

Advocate for the Respondent : SC, P H E

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

16.08.2023

1. The instant writ petition had been filed by the petitioner being aggrieved on account of non-payment of the outstanding bill of the petitioner of an amount of Rs. 11,60,505/-. It appears from the records that the Chief Engineer (Sanitation) PHE, Guwahati had filed an affidavit-in-opposition on 01.06.2023 wherein at paragraph no. 5 it had been mentioned that the petitioner is only entitled to amount of Rs. 7,51,110/- which is pending disbursal due to paucity of funds.

2. Mr. M.Z. Shah, learned counsel for the petitioner submits that the petitioner is

actually entitled to Rs. 11,60,505/- and the amount so stated in paragraph no. 5 of the affidavit-in-opposition is not a correct ascertainment of the entitlement of the petitioner.

3. Having heard the submissions of learned counsel for both the parties and taking note of that the respondent authorities and more particularly the Chief Engineer (Sanitation) PHE in its affidavit had stated that the amount to which the petitioner is entitled is Rs. 7,51,110/-, the said amount has to be released to the petitioner.

4. Mr. D. Gogoi, learned counsel for the PHE though submits that there is a term in the work order so issued that the payment shall be made upon availability of the funds. But it is the opinion of this Court that if there is a delay in making payment for an unreasonable period of time on account of the funds have not been allotted, the same term would be arbitrary and unreasonable.

5. Accordingly, this Court therefore directs the respondent authorities more particularly the Chief Engineer (Sanitation) PHE to take appropriate steps so that the amount of Rs. 7,51,110/- is released to the petitioner within a period of 6 (six) months from the date of certified copy of the instant order itself served upon the Chief Engineer (Sanitation) PHE.

6. This Court also had duly taken note of the submission made by the learned counsel for the petitioner that the petitioner is actually entitled to an amount of Rs. 11,60,505/-. Taking into account that upon verification it had been only found that the amount to which the petitioner is entitled is Rs. 7,51,110/-, this Court is not in a position to decide and adjudicate as to whether the petitioner is entitled to any further amount other than Rs. 7,51,110/- in exercise of the powers under Article 226 of the Constitution of India.

7. Accordingly, this Court rejects the said contention of the learned counsel for the petitioner but grants liberty to the petitioner to approach the appropriate forum where such adjudication of facts is permissible under law.

JUDGE

Comparing Assistant