

GAHC010240362022



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

Case No. : WP(C)/7610/2022

ABDUL MATIN KHAN
S/O- LT. ABDUL GANI KHAN, R/O- VILL- 1 NO. TITKURI, P.O. TITKURI, P.S.
RANGIA, DIST.- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, WATER
RESOURCE DEPTT., DISPUR, GHY-6

2:THE CHIEF ENGINEER
WATER RESOURCE DEPTT.
GOVT. OF ASSAM
CHANDMARI
GHY-3

3:THE EXECUTIVE ENGINEER
GUWAHATI WEST WATER RESOURCE DIVISION
BHARALUMUKH DIST.- KAMRUP
ASSAM
PIN- 781009

4:THE SUPERINTENDING ENGINEER
PALASBARI TOWN PROTECTION WATER RESOURCES CIRCLE
BHARALUMUKH
GHY-

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : SC, WATER RESOURCE

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 16-10-2023

Heard Mr. Sheikh Ateef, learned counsel appearing on behalf of Mr. M.A. Sheikh, learned counsel for the petitioner and Mr. R.M. Das, learned Standing Counsel, Water Resources Department for all the respondents.

2. It is the case of the petitioner that his father, Abdul Gani Khan, during his lifetime, had executed a number of Contract-Works, as indicated in the Statement of outstanding liabilities dated 11.08.2021 issued under the hand of the respondent no. 3 [Annexure-13]. The petitioner has submitted that against the Contract-Works executed by Abdul Gani Khan [since deceased], the respondent no. 3 in the said Statement of outstanding liabilities has mentioned the outstanding amount as Rs. 9,49,003/-. The petitioner has annexed 9 [nine] nos. of Work Orders issued in favour of Abdul Gani Khan, dated 18.05.2013, dated 19.06.2013 & dated 10.02.2012 as Annexure 4 to Annexure 12. It has been averred that Abdul Gani Khan expired on 23.12.2020 leaving the petitioner [son], his wife and another son as his legal representatives and to that effect, the office of the Sub-Divisional Officer [Civil], Rangia Sub-Division has issued a Next of Kin Certificate on 05.04.2021. The writ petition has been preferred seeking *inter alia* a direction to the respondent authorities to disburse an amount of Rs. 9,49,003/- which amount, according to the petitioner, is admittedly due against the Contract-Works.

3. The respondent no. 2 i.e. the Chief Engineer, Water Resources Department, has filed an affidavit-in-opposition on 11.09.2023 wherein it has

been admitted that the petitioner's father had executed the Contract-Works allotted to him under the Flood Management Program Scheme of the respondent authorities. It is further averred to the effect that as per records available with the office of the respondent no. 2, the bill value of the Contract-Works executed by Abdul Gani Khan was Rs. 9,92,647/-. The funds of the Flood Management Program Scheme is shared by the Government of India and the Government of Assam. On release of funds from the Government of India, a part payment to the extent of Rs. 4,27,614/- has already been disbursed in favour of the petitioner in March, 2023 along with other similarly situated contractors. It is further averred that the outstanding liability, as on date, payable in respect of Contract-Works executed by Abdul Gani Khan [since deceased] is Rs. 5,65,033/-. It has been averred that the said outstanding amount dues of Rs. 5,65,033/- will be paid on receipt of required fund from the Government of India.

4. Mr. Das, learned Standing Counsel, Water Resources Department projecting the above scenario, has submitted that since the remaining liability to the extent of Rs. 5,65,033/- has been admitted by the respondent no. 3 as the Head of Department, this writ petition can be disposed of in the line of the directions made in the 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.

5. Since the liability to the extent of Rs. 5,65,033/- has been admitted by the respondent no. 2 as the Head of Department, as outlined in Tamsher Ali [supra], this writ petition is disposed of by directing the respondent no. 2 to disburse the outstanding liability of Rs. 5,65,033/- in strict conformity with the

directions given by the Full Bench in Tamsheer Ali [supra] by adhering to the chronological order on receipt of necessary funds from the Government of India.

6. This order disposes of the writ petition.

JUDGE

Comparing Assistant