

GAHC010246012022



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

Case No. : WP(C)/7825/2022

SANDIP KUMAR PAUL
S/O- LATE SHYAMA KANTA PAUL,
R/O- VILLAGE AND P.O- KATIGORAH,
DIST- CACHAR, ASSAM, PIN-788805

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES
DEPARTMENT, DISPUR, GUWAHATI-781006

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

3:THE DIRECTOR
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT
RUKMININAGAR
GUWAHATI-781006

4:THE ASSAM STATE HOUSING BOARD (ASHB)
REPRESENTED BY THE COMMISSIONER
R.G BARUAH ROAD
GUWAHATI-78100

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC, HOUSING BOARD

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 11-09-2023

Heard Mr. A.K. Azad, learned counsel for the petitioner and Mr. R. Dhar, learned Standing Counsel, WPT&BC Department for the respondent nos. 1 & 3; Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2; and Mr. T.R. Gogoi, learned Standing Counsel, Assam State Housing Board for the respondent no. 4.

2. The case projected by the petitioner, in brief, is that the petitioner's father, Shyama Kanta Paul was a registered contractor with the respondent WPT&BC Department and during his life-time, he was awarded a contract-work : "Construction of Boys and Girls Hostel with complex improvement of Sri Sri Bhubaneswar Sadhu Thakur Seba Ashram at Silchar, Group no. 23" vide a Work Order bearing no. ASHB/Tech/974/2016/Pt-I/44/2384 dated 28.12.2017. As per the said Work Order, the value of the Contract-Work was ₹ 1,35,05,669.00. On receipt of the Work Order, the petitioner's father proceeded to execute the Contract-Work and after completing a part of it, the petitioner's father submitted his 1st Running Bill amounting to ₹ 32,84,055.00 on 05.02.2019. When the said 1st Running Bill was being processed by the respondent authorities for payment, Shyama Kanta Paul expired on 28.08.2020. The petitioner being the son of Late Shyama Kanta Paul, has instituted the instant writ petition seeking *inter alia* a direction to the respondent authorities to disburse the sum of ₹ 28,84,055.00 against the 1st Running Bill dated 05.02.2019, submitted by the petitioner's father in respect of the Contract-Work.

3. It transpires from the Communication bearing no. ASHB/Const/848/2018/90 dated 13.02.2019 [Annexure-4 to the writ petition] of the respondent no. 4 addressed to the respondent no. 3, that the said 1st running bill for the sum of ₹ 32,84,055.00 along with Progress Report, Certificate of Physical Progress, Completion Certificate, Inspection Report, etc. was forwarded with a request to make necessary arrangement for release of payment to the Assam State Housing Board at an early date so as to release the payment to Shyama

Kanta Paul. The respondent no. 3 has filed a counter affidavit on 17.02.2022 traversing the statements and averments made in the writ petition. In the counter affidavit, the fact of issuance of the Work Order for the Contract-Work in favour of Late Shyama Kanta Paul and the fact of submission of the 1st Running Bill for a sum of ₹ 32,84,055.00 on 13.02.2019 have been admitted. It has been averred that against the 1st Running Bill for the sum of ₹ 32,84,055.00, an amount of ₹ 4,00,000.00 had already been released in favour of Shyama Kanta Paul. It has been further averred that after receipt of his 1st Running Bill and other communications from the respondent no. 4, pertaining to the Contract-Work during the Financial Year : 2019-2020, the respondent no. 3 submitted a proposal to the Government for sanction of ₹ 28,00,000.00 for making payment to Shyama Kanta Paul vide letter no. DMDICI.698/2018-19/95 dated 29.02.2020. It is averred therein that as no sanction has been received from the Government against the said proposal, the remaining amount against the 1st Running Bill dated 05.02.2019 could not be released till date. It has been averred that during the last two financial years [FY], that is, FY : 2020-2021 and FY : 2021-2022, the proposal could not be furnished to the Government due to demise of Shyama Kanta Paul on 28.08.2020.

4. In view of the above fact situation obtaining in the case, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with the following directions :

[i] the petitioner shall submit a representation along with the copies of the death certificate of Late Shyama Kanta Paul and Next of Kin [NoK] certificate in support of his claim that the petitioner is the legal representative of Shyama Kanta Paul, who expired on 28.08.2020, at the office of the respondent no. 3 along with a copy of this order;

[ii] on receipt of such a representation along with the supporting documents from the petitioner, the respondent no. 3 shall examine the claim and thereafter, inform the petitioner about the necessity of submission of any further documents/certificates/order, etc. for processing the case of the petitioner as regards

the remaining part against the 1st Running Bill in accordance with law within a period of 30 [thirty] days of receipt of the representation;

[iii] The petitioner shall accordingly furnish such additional documents/certificates/order, etc., if any, as asked for by the respondent no. 3 at the earliest possible time to enable the respondent no. 3 to process the claim in accordance with law as regards the remaining amount against the 1st running bill for the Contract-Work under reference and submit the requisite proposal before the Government for sanction and release; and

[iv] the remaining part of the 1st Running Bill dated 05.02.2019 against the Contract-Work shall be released to the person[s] eligible to receive the sum i.e. the legal representative[s] of Late Shyama Kanta Paul as soon as the necessary fund is received from the Government and following the directions made by the Full Bench judgement 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. It is accordingly ordered.

6. As the amount claimed by the petitioner is in relation to the Contract-Work executed by Shyama Kanta Paul during his lifetime, it is expected that the respondent authorities shall process in the claim to disburse the entitled amount in an expeditious manner.

7. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant