

GAHC010253262022



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

Case No. : WP(C)/7997/2022

TAPAN TAMULI
S/O LATE DHIRESWAR TAMULI, R/O VILL- PUB-MAZDIA, P.O.-MUGKUCHI,
P.S.-NALBARI, DIST- NALBARI, ASSAM, PIN-781334

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY ITS SECRETARY, PUBLIC HEALTH ENGINEERING
DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE CHIEF ENGINEER (PHE)
WATER
HENGRABARI
GUWAHATI-781036
DIST-KAMRUP (M)
ASSAM

3:THE EXECUTIVE ENGINEER (PHE)
NALBARI DIVISION
P.O.-NALBARI
DIST- NALBARI
PIN-781335

4:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-78100

Advocate for the Petitioner : MR. U DUTTA
Advocate for the Respondent : SC, P H E

**BEFORE
HONOURABLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 19.06.2023

Heard Mr. U. Dutta, learned counsel for the petitioner. Also heard Mr. R. R. Gogoi, learned counsel, appearing on behalf of respondents No. 1, 2 & 3; and Mr. A. Chaliha, learned standing counsel, Finance Department, Government of Assam, appearing on behalf of respondent No. 4.

This writ petition has been filed, seeking a direction to the respondent authorities to pay to the petitioner, a sum of Rs. 5,05,542/- for supply of stationery articles and distribution system materials made by the petitioner in terms of the 4(four) work orders, i.e. (i). work order dated 31.03.2020, issued by the Executive Engineer(PHE) Nalbari Division, Nalbari, vide Memo. No. PHEE/NAL/Misc-88/2018-19/5880, for supply of stationery articles; (ii). work order, dated 23.07.2020, issued by the Executive Engineer, PHE, Nalbari Division, Nalbari, vide Memo. No. PHEE/NAL/TC-5(B)/2020-21/1491, for supply of distribution system materials at Kachimpur Kandukuchi PWSS; (iii). work order, dated 04.08.2020, for installation of 1 No. of 100*100 mm D.T.W. including cost of materials against installation of CWPPS under NWQSM for the year 2020-21, vide Memo. No. PHEE/NAL/TC-147/2020-21/2373; and (iv). work order, dated 04.08.2020, for installation of 1 No. of 100*100 mm D.T.W. including cost of materials against installation of CWPPS under NWQSM for the year 2020-21, vide Memo. No. PHEE/NAL/TC-147/2020-21/2370.

This Court, in the proceeding held on 14.12.2022, had passed the following order:

“Mr. R.Borpujari, learned standing counsel for the Finance Department has submitted that for amount involved in this nature, financial powers have already been delegated to the concerned authorities of the Public Health Engineering Department and other Administrative Departments. Therefore, the respondents are put to notice that if financial powers have already

been delegated to the Public Health Engineering Department, why their inaction to exercise power should not be reported to the Chief Secretary of the Government of Assam to bring to his notice the inaction on part of the PHA authorities in not releasing contractual dues despite having financial powers.

The Public Health Engineering Department shall also take notice that on their failure to file an affidavit-in-opposition at least 2(two) days prior to the next date of listing, the Court shall presume that for extraneous reasons their authorities are sitting over the bills of the petitioner and appropriate orders would be passed on the next date.

The learned standing counsel for the Finance Department as well as the Public Health Engineering Department shall send the downloaded copy of the order to the Head of Department by whatever designation called, to bring the order to the notice of the said authorities."

Despite the aforesaid order passed by the Court, directing the respondents Public Health & Engineering Department (PHED), to file an affidavit-in-opposition at least 2(two) days prior to the next date of listing; no affidavit-in-opposition has been filed by the respondents Public Health & Engineering Department (PHED), as yet.

Accordingly, as provided in the order, dated 14.12.2022, and also having regard to the meagre amount payable to the petitioner by the respondents Public Health & Engineering Department (PHED) in respect of the materials supplied by the petitioner in terms of the 4(four) work orders, referred to above; it is presumed that the authorities of the Public Health & Engineering Department (PHED) are sitting over the bills of the petitioner for extraneous reasons.

In view of the above, on consideration of the matter in its entirety; this writ petition is hereby allowed with a direction to the respondent No. 3 i.e. Executive Engineer(PHE), Nalbari Division, Nalbari, to pay to the petitioner a sum of Rs. 5,05,542/- for the materials supplied to the Department, pursuant to the work orders, noted-above.

The writ petition accordingly stands allowed and disposed of.

JUDGE

Comparing Assistant