

GAHC010278242023



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

Case No. : WP(C)/7160/2023

KUNTAL BARMAN
SON OF- SHONIT BARMAN, RESIDENT OF VILL.- ITKHOLA, IDGAH ROAD,
P.O. AND P.S. SILCHAR, DISTRICT- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH SECRETARY TO THE GOVT. OF ASSAM, PWD (R AND B),
DISPUR, GUWAHATI-06

2:CHIEF ENGINEER
PWD (ROADS)
ASSAM
CHANDMARI
GUWAHATI-03

3:SUPERINTENDING ENGINEER
PWD (ROADS) CACHAR ROAD CIRCLE
SILCHAR
CACHAR
PIN- 788001

4:EXECUTIVE ENGINEER
PWD (ROADS)
SILCHAR RURAL ROADS DIVISION
SILCHA

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

13.12.2023

Heard Shri LR Mazumdar, learned counsel for the petitioner. Also heard Shri B Gogoi, learned Standing Counsel, PWD.

2. The present case relates to a claim for payment of bills amounting to Rs. 7,05,954/-. It is the case of the petitioner that a work was allotted to him for improvement of Maidan Bill Railway Line near Rina Rabidas House to new Kashipur Nachghar under SCSP for the year 2009-10 (Group-II) for which he had submitted running bill for the aforesaid amount.

3. Shri Mazumdar, learned counsel has also referred to the copies of the work order and running bills which are of the year 2012. Reference has also been made to a legal notice of the year 2022.

4. On the other hand, Shri B Gogoi, learned Standing Counsel has raised a preliminary objection on the maintainability of the writ petition by contending that the same is hopelessly barred by limitation which also indicates laches on the part of the petitioner.

5. Shri Mazumdar, learned counsel has, however, submitted that the work was incomplete and the fact of cancellation of the same came to the knowledge of the petitioner in the year 2020. The aforesaid submission is, however, refuted by the learned Standing Counsel by submitting that there is no such averment in the writ petition.

6. Be that as it may, the claim is on the basis of work which, according to the petitioner himself, was done in the year 2012-13. Though the provisions of the Limitation Act, 1963 may not have a strict application in a writ proceeding, a Constitution Bench of the Hon'ble Supreme Court in the case of **State of MP Vs. Bhailal Bhai**, reported in **AIR 1964 SC 1006**, has laid down as follows:

“21. ... Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable ...”

7. This Court by taking the guidance of the law laid down is of the view that a Writ Court being a Court of Equity, the conduct of the party approaching this Court is of paramount importance and in this case, the delay and laches are apparent on the face of it. It is further trite law that issuance of a legal notice would not extend limitation and a party would get the benefit of extension of limitation only when there is an acknowledgment of liability within the period of such limitation.

8. In view of the above, this Court is of the opinion that the subject matter

involved is not maintainable and accordingly, the writ petition is dismissed.

JUDGE

Comparing Assistant