

GAHC010299262019



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

Case No. : WP(C)/9042/2019

SAMSUL HOQUE AND 3 ORS.

S/O- LATE ABDUL KAYEM, VILL- MOYNALA, P.O- ERALIGOOL, P.S-
PATHARKANDI, DIST- KARIMGANJ, ASSAM, PIN- 788723

2: NUR UDDIN

S/O- LATE ABDUR RAHIM

VILL- MOYNALA

P.O- ERALIGOOL

P.S- PATHARKANDI

DIST- KARIMGANJ

ASSAM

PIN- 788723

3: ISLAM UDDIN

S/O- LATE ABDUL MANNAN

VILL- BUDDANATHPUR

P.O- ERALIGOOL

P.S- PATHARKANDI

DIST- KARIMGANJ

ASSAM

PIN- 788723

4: ABDUL HASIM

S/O- LATE SOKAT ALI

VILL- BUDDANATHPUR

P.O- ERALIGOOL

P.S- PATHARKANDI

DIST- KARIMGANJ

ASSAM

PIN- 78872

VERSUS

THE UNION OF INDIA AND 12 ORS

REP. BY THE SECRETARY, MIN OF RURAL DEVELOPMENT, GOVT OF
INDIA, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPTT
DISPUR
GUWAHATI- 06

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI- 37

4:THE DEPUTY COMMISSIONER
KARIMGANJ
ASSAM
PIN- 788710

5:THE PROJECT DIRECTOR
DISTRICT RURAL DEVELOPMENT AGENCY
KARIMGANJ
ASSAM
PIN- 788710

6:THE KARIMGANJ ZILLA PARISHAD
REP. BY CHIEF EXECUTIVE OFFICER
KARIMGANJ ZILLA PARISHAD
KARIMGANJ
ASSAM
PIN- 788710

7:THE BLOCK DEVELOPMENT OFFICER
PATHARKANDI DEVELOPMENT BLOCK
PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788724

8:THE JUNIOR ENGINEER
PATHARKANDI DEVELOPMENT BLOCK
DUHAILA
PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788724

9:THE BANDARKUNA GAON PANCHAYAT
REP. BY THE SECRETARY
P.O- BANDARKUNA
P.S- PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788723

10:THE PRESIDENT
BANDARKUNA GAON PANCHAYAT
P.O- BANDARKUNA
P.S- PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788723

11:THE ACCREDITED ENGINEER
PATHARKANDI DEVELOPMENT BLOCK
DUHAILA
PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788724

12:THE GRAM ROJGAR SAHAYAK
PATHARKANDI DEVELOPMENT BLOCK
DUHAILA PATHARKANDI
KARIMGANJ
ASSAM
PIN- 788724

13:THE PRESIDENT OF VILLAGE LEVEL MONITORING COMMITTEE
NAMELY ABDUL SATTAR
S/O- LATE ABDUL HOQUE
VILL- SOUTALBASTI
P.O- ERALIGOOOL
P.S- PATHARKANDI
DIST- KARIMGANJ
ASSAM
PIN- 78872

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

21/07/2023

Heard Mr. A. Islam, learned counsel for the petitioners. Also heard Mr. N. K. D. Nath, learned standing counsel, P & RD department.

2. This writ petition has been filed by the petitioners, who claim to be the residents of Bandarkuna Gaon Panchayat under Patharkandi Development Block of Karimganj district.

3. The petitioners claim to be job card holders under the said Gaon Panchayat and has filed writ petition on behalf of 700 (seven hundred) numbers of Job Card Holders in a representative capacity. It is submitted that under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 there was a guarantee to provide 100 days employment in a financial year for each family living below poverty line. In terms of the said scheme the petitioners were found to be eligible for being issued Job Cards and the same was accordingly issued. However, inspite of the works executed under the said Gaon Panchayat, the necessary funds required to be released by the respondent department has not been released. According to the petitioners the Job Cards holders claims to have completed works for an amount of Rs.2,10,31,020.00 (Rupees two crore ten lakhs thirty one thousands and twenty) only and as against which only an amount of Rs.29,79,120.00 (Rupees twenty nine lakhs seventy nine thousands one hundred twenty) only has been released. The remaining amount of Rs. 1,80,51,900.00 (Rupees one crore eighty lakhs fifty one thousands nine hundred) only has not been released by the authority and no reasons therefore has been issued by the department.

4. Being aggrieved the present writ petition has been filed.

5. The Karimganj Zila Parishad has filed their affidavit and it is stated therein that in the absence of detailed particulars it cannot be ascertained whether 700 numbers of persons on whose behalf the writ petitioners have filed the writ petition in representative capacity were actually employed under the MGNREGA. It is stated in the said affidavit that any amount which is payable in respect of the schemes by the department will be released by the concerned department and no amount which is sanctioned in respect of any particular scheme can be diverted for any other scheme. In view of such specific averments made in the affidavit, this Court is of the considered opinion that necessary particulars will have to be furnished by the petitioner before the concerned authorities to effectively address their grievances.

6. At this stage the learned counsel for the writ petitioners submits that he be permitted to file a detailed application with all particulars before the Deputy Commissioner, Karimganj/Respondent No.4 and thereupon the Deputy Commissioner be directed to look into the grievances of the petitioner and thereafter dispose of the said representation. Such submission made by the learned counsel for the petitioner is not objected to by the learned counsel for the department.

7. Accordingly, this writ petition stands closed giving liberty to the petitioners to approach the Deputy Commissioner, Karimganj/Respondent No.4 and file necessary applications for release of payments to the Job Cards holders in respect of the works stated to have been executed under the Gaon Panchayat in terms of the schemes which were allotted.

8. The said application to be filed shall be accompanied by all necessary

particulars.

9. The petitioners are given a liberty to file a copy of the writ petition also before the Deputy Commissioner, Karimganj.

10. This application shall be preferred within a period of 2 (two) weeks from today and upon receipt of such application the Deputy Commissioner, Karimganj will thereupon pass a speaking order in the said application and a copy thereof be furnished to the petitioners.

11. The Deputy Commissioner, Karimganj will pass the orders within a period of 4 (four) weeks from the date of receipt of a copy of the application along with a certified copy of this order.

12. Writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant