

GAHC010006582021



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

Case No. : WP(C)/335/2021

AJIT BARMAN
S/O LATE SANTIRAM BARMAN
RESIDENT OF VILLAGE KAKAYA, PO KAKAYA, PS BELSOR, 781304,
NALBARI

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, PUBLIC
HEALTH ENGINEERING DEPARTMENT, DISPUR GUWAHATI 06, ASSAM

2:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING
HENGRABARI
GUWAHATI 06
ASSAM

3:THE SUPERINTENDING ENGINEER

PUBLIC HEALTH ENGINEERING (PHE)
NALBARI NEAR CHOUDHURY MARKET
NALBARI
PO AND DIST NALBARI
ASSAM
781335

4:THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING (PHE) BELSOR DIVISION
BELSOR
PO BELSOR
781304
NALBARI

ASSA

Advocate for the Petitioner : MR. N D BHUYAN

Advocate for the Respondent : SC, P H E

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

28.05.2024

1. Heard Mr. P.D. Bhuyan, learned counsel for the petitioner as well as Mr. I. Borthakur, learned counsel for the respondent PHE Department.

2. The petitioner's case is that the petitioner has not been paid his contractual dues amounting to Rs.2,54,558/- for the work done against the following works :

- “i) Repairing of Raw and clear water pumping main at Belsor Pt-I PWSS, 2017-18,*
- ii) Repairing of submersible pump set at Jagara PWSS, 2016-17,*
- iii) Repairing of panel board (Electrical) at Jagara PWSS, 2016-17,*
- iv) Washing, Cleaning and recharging filter media including repairing of Internal connection at Jagara PWSS, 2016-17,*
- v) Repairing of distribution system including recharging of filter media at Gandhiya PWSS, 2017-18,*
- vi) Providing of Iron gate at Jagara PWSS, 2016-17 and*
- vii) Repairing of distribution system at Kakaya Pt-II PWSS, 2017-18 in the Executive Engineer (PHE) Belsor Division, Belsor”*

3. The petitioner's counsel submits that the contractual dues of Rs.2,54,558/- has been admitted by the Executive Engineer (PHE), Belsor Division, vide the letter no. PHEE/BLR/AC-74/Pt-II/2019-20/2290 dated 09.01.2020 and the Statement of outstanding balance annexed to the said letter. He accordingly submits that a direction should be issued to the respondents to make payment of the admitted amount.

4. Mr. I. Borthakur, learned counsel for the PHE Department, on the other hand submits that in terms of the judgment of the Full Bench of this Court passed in the case of ***Tamsher Ali vs. State of Assam & Others***, reported in ***2008 (4) GLT 1***, the Full Bench of this Court has held that all claims for payment of outstanding dues would have to be admitted by the respective Chief Engineers of the concerned works Department or the Head of the Departments. He accordingly submits that the writ petition can be disposed of, if the Chief Engineer, PHE, Assam is allowed to re-verify the claim of the petitioner. If the claim is found to be correct, payment can be made to the petitioner.

5. I have heard the learned counsels for the parties.

6. A perusal of the records show that while the petitioner had filed this case for payment of his contractual dues on 07.01.2021, no affidavit has been filed by the respondent PHE Department, even after a lapse of 3 (three) years. Further, the counsel for the respondent has stated before this Court that despite letters having been written to the PHE Department seeking instructions, no instructions have been forthcoming from the Department except from the Executive Engineer concerned, which is to the effect that the claim of the

petitioner is an admitted amount.

7. In view of the judgment of the Full Bench of this Court in ***Tamsher Ali (supra)***, this Court directs the Chief Engineer, PHE, Assam to re-verify the claim of the petitioner and if it is found that the claim of the petitioner is correct, payment for the outstanding admitted liability should be made. The entire exercise should be concluded within a period of 1 (one) month from the date of receipt of a certified copy of this order.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant