

GAHC010009732017



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

Case No. : WP(C)/106/2017

BISTU RAM NARZARY
S/O RABINDRA NARZARY VILL- BAMUNGOON PT.III P.O. SILGARA P.S.
KOKRAJHAR DIST. KOKRAJHAR, BTAD, ASSAM PIN - 783348.

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT, ROADS, DISPUR, GUWAHATI-781006.

2:THE UNDER SECRETARY TO THE
GOVT. OF ASSAM
PUBLIC WORKS DEPARTMENT
ROADS
DISPUR
GUWAHATI - 781006.

3:THE CHIEF ENGINEER

ASSAM PUBLIC WORKS DEPARTMENT PWD
ROADS
CHANDMARI
GUWAHATI - 781003.

4:THE SUPERINTENDING ENGINEER

PWD ROADS
WESTERN ASSAM CIRCLE
GOALPARA
ASSAM.

5:THE DEPUTY COMMISSIONER

DHUBRI
P.O. DHUBRI
DIST. DHUBRI
ASSAM
PIN - 783301.

6:THE EXECUTIVE ENGINEER

PWD ROADS DHUBRI RURAL ROADS DIVISION
DHUBRI
P.O DHUBRI
DIST. DHUBRI
ASSAM
PIN - 783301.

7:THE ASSISTANT EXECUTIVE ENGINEER

PWD ROADS BILASIPARA RURAL ROADS SUB-DIVISION
DIST. DHUBRI
ASSAM

8:THE CIRCLE OFFICER

CHAPAR REVENUE CIRCLE
P.O. CHAPAR
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR.N I KHAN

Advocate for the Respondent : GA, ASSAMR5 and 8

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 04-03-2024

Heard Mr. M.R. Khandakar learned counsel for the petitioner. None appears for the respondent.

The present writ petition is filed with a prayer to release the

outstanding due to the petitioner for execution of certain works. According to the petitioner, the petitioner executed certain works under SDRF scheme for the year 2015-2016, however, such works were executed on verbal request of the respondent authorities without any work order.

It is further the case of the petitioner that a joint verification was subsequently done, however, even after that the said amount due to the petitioner has not been made.

The respondent No.6 i.e., the Executive Engineer PWD, Dhubri Rural Roads Division has filed an affidavit in opposition and had taken a stand that a joint verification was done as regards certain works but there was no report regarding the work executed by the petitioner. A further stand was taken that no work was done by the petitioner on any verbal order and therefore there is no question of regularizing the work for release of fund.

Thus the respondent authorities have disputed and denied the claim of the petitioner that he had executed such work. Therefore, this court in the aforesaid backdrop of pleadings cannot entertain this writ petition to determine the disputed question of facts i.e., whether the petitioner had actually executed the work inasmuch as it is the case of the petitioner that on verbal order he executed the work. Such fact had to be investigated and determined before this court to come to a conclusion that the action of the respondent state is arbitrary to intervene with such action. Not only that such disputed fact shall require assessment of evidence and correctness of such assessment in the given facts of the present case can be tested

satisfactorily by taking detail evidence, more particularly, as regards the verbal order and execution thereof. Such assertion and determination cannot be made in a proceeding under article 226 of the Constitution of India.

Accordingly this writ petition stands dismissed. However, while parting with the record, it is provided that the petitioner shall be at liberty to approach the appropriate forum to establish his claim as permissible under law.

JUDGE

Comparing Assistant