

GAHC010040792022



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

Case No. : WP(C)/1770/2022

M/S. BASUMATARY ENTERPRISE AND ANR
A PROPRIETORSHIP CONCERN, HAVING ITS OFFICE AT BANDUGURI,
DANGAIGAON, CHIRANG, ASSAM-783380, REP. HEREIN BY ITS
PROPRIETOR SRI MUKTA BASUMATARY.

2: MUKTA BASUMATARY
S/O- LATE MUNINDRA BASUMATARY
R/O- BANDUGURI
DANGAIGAON
CHIRANG
ASSAM-783380

VERSUS

THE BODOLAND TERRITORIAL COUNCIL AND 3 ORS
KOKRAJHAR, ASSAM, REP. BY ITS PRINCIPAL SECRETARY, PIN- 783370.

2:THE PRINCIPAL SECRETARY BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN- 783370.

3:THE DEPUTY SECRETARY (H AND FW DEPT.)
BTC
KOKRAJHAR
PIN- 783370.

4:THE JOINT SECRETARY (H AND FW DEPT.)
BTC
KOKRAJHAR
PIN- 783370

Advocate for the Petitioner : MR S BORTHAKUR, MR. D GOGOI,MR. P. SINGHA,MR P H
KONWAR

Advocate for the Respondent : SC, BTC,

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

ORDER

Date : 28.08.2024

Heard Mr. S Borthakur learned counsel for the petitioner. Also heard Mr. S Bora learned standing counsel, BTC.

The projected case of the petitioner is that during the time when Covid 19 pandemic was in its peak, the respondent BTC authorities directed the petitioner to supply numbers of materials to the respondent at different health care facilities. In compliance of the said direction, the petitioner had supplied numbers of materials at different health facilities at different locations by investing his own resources but the respondent BTC authorities has not yet finalized the rate and accordingly the writ petition was filed.

An affidavit was filed by the Secretary of BTC, Kokrajhar with a stand that though there was an order of procurement, however, it was not approved by higher authorities.

As it was not clear whether the claim of the petitioner is admitted, further time was granted by this court under its order dated 21.02.2024 permitting the respondents to file a specific affidavit as regards the claim made by the petitioner. Subsequently, an affidavit has been filed by the respondent Secretary of the BTC, who has taken the following stand at paragraph Nos.4 & 5 of the aforesaid affidavit.

4. That the deponent begs to state that the Incharge of Central Drugs Ware House, BTC, vide letter No.CDWH/BTC/K24-25/14 dt.02/05/2024 submitted a tabulation of various items received from M/S Basumatary Enterprise; Bandurguri, Chirang for all Govt. and Non Govt. officers of four districts of BTC including BTC Secretariat for Covid-19 crisis related supply. But there is no indication regarding the rate of items.

5. Further the deponent begs to state that the petitioner's claim is being examined and once process is complete and found eligible for making payment, the decision will be taken in the light of the directions in "Tamsher Ali & Ors Vs. The State of Assam & Ors reported in 2008 (4) GLT 1."

In conformity with the aforesaid stand, Mr. S Bora learned standing counsel, BTC submits that he has instructions to submit that the writ petition can be disposed of by directing the respondent authorities to consider the case of the petitioner in terms of the determination in ***Tamsher Ali Vs. State of Assam*** reported in ***2008(4) GLT 1 (FB)*** within a specific time frame.

Mr. S Borthakur submits that he will have no grievance, if the matter is relegated to the authorities for verification and payment within a specific period.

Considering the consensus arrived at the bar as well as the stand taken by the BTC authorities, the present writ petition is disposed of by permitting the petitioner to file a fresh representation along with a copy of this order passed today before the Principal Secretary, BTC within a period of two weeks from today.

On receipt of such representation, the Principal Secretary BTC shall consider the claim of the petitioner, verify the same and if it is found

that the amount claimed by the petitioner is admissible, he shall pay the said amount to the petitioner within a period of eight weeks after completion of such verification.

In the aforesaid terms, the writ petition stands disposed of.

JUDGE

Comparing Assistant