

GAHC010048852023



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

Case No. : WP(C)/1325/2023

M/S BALAJI TRADERS
A PROPRIETORSHIP FIRM HAVING ITS OFFICE AT GNB ROAD GUWAHATI
AND ALSO REGISTERED UNDER MSME/UDYAM ADHAR HAVING ITS
REGISTRATION NO. UDYAM AS 03-0001709 REP. BY ITS MANAGER NAMELY
MR. DIBAN DAIMARI

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM TRIBAL
AFFAIRS PLAIN D BLOCK DISPUR GUWAHATI 6

2:THE SECRETARY
GOVT. OF ASSAM TRIBAL AFFAIRS PLAIN D BLOCK DISPUR GUWAHATI 6

3:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM FINANCE (EC-I) DEPTT. DISPUR GUWAHATI 6

4:THE COMMISSIONER AND SECRETARY (FINANCE) (BUDGET)
DISPUR GUWAHATI 6

5:THE DIRECTOR
TRIBAL AFFAIRS PLAIN ASSAM RUKMINI NAGAR GUWAHATI 6

6:THE FINANCE AND ACCOUNT OFFICER DIRECTORATE (FAO)
TRIBAL AFFAIRS PLAIN ASSAM RUKMINI NAGAR GUWAHATI 6

7:FINANCE ADVISOR (FA)
TRIBAL AFFAIRS PLAIN ASSAM RUKMINI NAGAR GUWAHATI 6

8:JOINT /DEPUTY DIRECTOR
TRIBAL AFFAIRS PLAIN ASSAM RUKMINI NAGAR GUWAHATI

Advocate for the Petitioner : MR. S SARMA

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 28.06.2024

- 1.** Heard Ms. N. Ahmed, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned counsel for the Tribal Affairs (Plain) Department.
- 2.** The grievance of the petitioner is that on completion of supply work given to the petitioner under the scheme 'Distribution of Grants indicative items under procurement & supply includes Sports goods and Equipment' to Madahi Development Council, the respondents were to disburse a sum of Rs.12,63,605/- to the petitioner. As the same was not being done, the petitioner filed the present case.
- 3.** On 29.05.2024, Mr. R. Dhar, learned counsel had produced a cheque for payment of Rs.3,00,000/- to the petitioner, which was allowed to be submitted before the Registry. Mr. R. Dhar submits that the said cheque has been submitted with the Registry on 30.05.2024.
- 4.** This Court, vide order dated 29.05.2024 had also recorded the submission made by Mr. R. Dhar that the respondents would pay the balance admitted amount of Rs.9,58,333/- with 3 (three) months w.e.f 29.05.2024. The order also stated that some amount should also be paid to the petitioner within 1 (one) month.
- 5.** On 26.06.2024, Mr. R. Dhar, learned counsel had brought Cheque No.426527 dated 25.06.2024 for Rs.1,00,000/-, payable to the petitioner. The number '0' in the year 2004 had been cancelled and the number '2' had been given, by way of a black pen, while all the other notings on the cheque was made with a blue pen.

6. Today, Mr. R. Dhar, learned counsel for the respondent has produced a Bank of Maharashtra, Ganeshguri Branch cheque, bearing No. 426528, dated 26.06.2024, for Rs. 1 Lakh, payable to the petitioner, in lieu of the above cheque dated 25.06.2024.

7. Mr. R. Dhar has also submitted letter dated 24.06.2023 issued by the Director, Tribal Affairs (P), Assam, requesting him to take time for three months, for making payment of the pending liability of the petitioner, i.e. for Rs. 8,58,333/-. Mr. R. Dhar submits that the letter dated 26.04.2023 should be read as 24.06.2024 and the same is clarified by the contents of the said letter, which is as follows:-

“NO.DTA/MDC/148/2023-24/28 Dated Guwahati the 24th June, 2023

*From: The Director, Tribal Affairs (P), Assam
Rukmininagar, Guwahati -6*

*To : Shri Rahul Dhar,
Addl. Senior Advocate & Standing Counsel
Tribal Affairs (P), Assam, Gauhati High Court.*

Subject: Court Case No. WP(C)1325/2023, M/s Balaji Traders vs State of Assam & 7 ors

Reference: Your representation regarding the above-mentioned court case.

Sir,

With reference to the above, I am to inform you that the Madahi Development Council had Budget provision of Rs. 33.60 lakh during the financial year 2023-24 where in an amount of Rs. 3.00 lakh was earmarked against pending liability of M/s Balaji Traders. Accordingly the amount of 3.0 lakh was released vide cheque no. "426526", dated 06-05-2024.

*Further, in compliance of Hon'ble Gauhati High order dated **29-05-2024** an amount of Rs. 1,00,000/- (Rupees One lakh) only is released to M/s Balaji Traders from the budget of 2023-24. For the remaining amount of pending liability of Rs. 8,58,333/-, the aforesaid Council has decided to earmark the entire pending amount in the current financial year 2024-25. An amount of Rs. 33.60 lakh has been earmarked against the Madahi Development Council for the current financial year and the list of activities are yet to be finalized. The meeting for finalization of list of activities which are to be implemented during the year 2024-25 is scheduled on 4th July, 2024 and the matter of payment of pending liability amounting to Rs.8,58,333/- in favour of M/s Balaji Traders shall be considered in the said meeting. Once the list of activities including the matter of pending payment is received by this office, the matter shall be processed for submission to the Govt. for sanction of fund.*

In view of the above you are requested to apprise the Hon'ble Gauhati High Court and seek additional time of 3 months more for payment of the pending liability to M/s Balaji Traders. ”

- 8.** The cheque for Rs. 1 Lakh be deposited by Mr. Dhar in the Registry and the same shall thereafter be furnished to the petitioner on proper identification.
- 9.** On considering the fact that the respondents have admitted to the fact that they are still liable to pay Rs.8,58,333/- to the petitioner and that they would pay the same within three months, there is nothing left to adjudicate in this case.
- 10.** The respondents are accordingly directed to pay to the petitioner the balance amount of Rs. 8,58,333/-, within a period of three months from today.
- 11.** The writ petition is accordingly disposed of.

JUDGE