GAHC010086182023

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

Case No. : WP(C)/2242/2023

LAKH BAHADUR CHETRI
SON OF LATE RATNA BAHADUR CHETRI,
RESIDENT OF VILLAGE- SHARIHATOLI,
POST OFFICE- BAMUNIJAN,
POLICE STATION- RAHA,
DISTRICT- NAGAON, ASSAM,
PIN- 782425.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM,
WATER RESOURCE DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE CHIEF ENGINEER
WATER RESOURCE DEPARTMENT
CHANDMARI GUWAHATI
PIN- 781003.

3:THE SUPERINTENDING ENGINEER
NAGAON AND MARIGAON WATER RESOURCE CIRCLE
R K B ROAD HAIBARGAON
DISTRICT- NAGAON
PIN- 782001.

4:THE EXECUTIVE ENGINEER
MARIGAON WATER RESOURCE DIVISION
MARIGAON DISTRICT- MARIGAON PIN- 782105.

5:THE UNION OF INDIA
REPRESENTED BY COMMISSIONER
MINISTRY OF JAL SHAKTI

DEPARTMENT OF WATER RESOURCES RURAL DEVELOPMENT AND GANGA REJUVENATION
6TH FLOOR CABIN SHRAM SHAKTI BHAWAN
RAFI MARG
NEW DELHI-11000

Advocate for the Petitioner : MR. T DEURI, MRS. R S DEURI

Advocate for the Respondent : SC, WATER RESOURCE,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 02.08.2024

Heard Mr. T. Deuri, learned counsel for the petitioner. Also heard Ms. A. Gayan, learned CGC appearing for the respondent No.5 and Ms. R. Deka, learned counsel for the respondent Nos. 1 to 4.

2. The petitioner's case is that the petitioner is a registered contractor with the Water Resources Department, Morigaon. The petitioner was given various work contracts under the Scheme of "R/S to T/dyke Along Both Banks of Kopilli River From Charaihagi to Tuklaitup (L/B), Basundhari to Killing Kopilli Junction (L/B) and Chaparmukh Ahatguri Amsoi P.W.D. Road (R/B) Including Anti-Erosion Measures at Different Reaches."

3. Though the petitioner had completed the work contracts and was paid a certain sum of money, the balance amount of Rs. 12,37,710/- has not been paid to the petitioner.

4. The petitioner's counsel submits that the Executive Engineer, Morigaon WR

Division, vide letter No. MGWRD/W-205/PT.V/2021/10586 dated 19.10.2021, has furnished the liability statement stating that the outstanding liability amount towards the petitioner is Rs. 12,37,710/-. The petitioner's counsel submits that the present case is covered by the order dated 27.09.2022 passed by this Court in WP(C) No. 4734/2021 *(Nazim Hussain Vs. The State of Assam and 8 Ors.).* She accordingly submits that a similar direction, as given in the above case, be issued in this case.

5. Ms. A. Gayan, learned CGC and Ms. R. Deka submit that they have got no objection to the prayer made by the petitioner's counsel. Ms. R. Deka however submits that funds have to be released by the respondent No. 5, as the funds share payable by the State Government is 10%, while the Central Government share is 90%. Ms. A. Gayan submits that the respondent Nos. 1 to 4 will have to submit all required documents to the respondent No. 5, for release of funds.

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

7. This Court, in a series of cases, the leading case being WP(C) 4734/2021 *(Nazim Hussain -vs- The State of Assam and 8 others)*, while disposing of similar matters, had passed the following direction, which are as follows:-

> "*(1) Within 15 (fifteen) days from today, the concerned official of the State Government of Assam will communicate the supplementary budget passed in the last Assembly Session pertaining to the scheme to the competent authority of the Ministry of Jal Shakti, Government of India.*
>
> *(2) Within 60 (sixty) days from the date of receipt of such communication, the Ministry of Jal Shakti to release the amount due under the schemes to the concerned Department of the Government of Assam.*
>
> *(3) Upon receipt of the amount, bills of the writ petitioners shall be*

processed and cleared within a further period of 45 days"

8. In view of the consent of the parties and in view of the liability statement attached to the letter No. MGWRD/W-205/PT.V/2021/10586 dated 19.10.2021, issued by the Executive Engineer, Morigaon W.R. Division, this Court is of the view that this writ petition can be disposed of at the motion stage itself.

9. In view of there being an admission made by the respondent No. 4, the respondent No. 2 is directed to re-verify the claim made by the petitioner, in terms of the Full Bench judgment of this Court in the case of ***Tamsher Ali vs. State of Assam and others***, reported in ***2008 (4) GLT 1*** and thereafter take a decision with regard to whether the amount claimed by the petitioner is as per records. In the event, the respondent No. 2 comes to a decision that the amount claimed is an admitted amount, the direction passed in WP(C)4734/2021, which has been enumerated above, shall be complied with. The respondents shall thereafter complete the entire process, within a period of 5 (five) months from the date of receipt of a copy of this order.

10. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant