

GAHC010087192020



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

Case No. : WP(C)/2594/2020

AVA TECHNOLOGY GROUP
HAVING ITS REGD. OFFICE AT N.T.ROAD, KAMARCHUBURI, TEZPUR, P.O.
TEZPUR, DIST.- SONITPUR, ASSAM, PIN- 784001,PRESENT OFFICE
ADDRESS- MISSION CHARIALI, SAIKIA COMPLEX, 2ND FLOOR, NEAR BUS
STOP, P.O. TEZPUR, DIST.- SONITPUR, ASSAM, PIN- 784001, REP. BY ITS
PRESIDENT SHRI NIRANJAN SAIKIA, 41 YEARS

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SKILL,
EMPLOYMENT AND ENTREPRENEURSHIP DEPTT., DISPUR, GHY-6

2:THE COMM. AND SECY.
LABOUR AND EMPLOYMENT DEPTT.
ASSAM
DISPUR
GHY-6

3:THE DIRECTOR
EMPLOYMENT AND CRAFTSMEN TRAINING
ASSAM
REHABARI
GHY-8

4:UNION OF INDIA
REP. BY THE SECY. TO THE GOVT. OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
SHRAM SHAKTI BHAVAN
RAFI MARG
NEW DELHI- 110001

5:DIRECTOR GENERAL OF EMPLOYMENT AND TRAINING
SHRAM SHAKTI BHAVAN
RAFI MARG
NEW DELHI- 110001

6:DIRECTOR
REGIONAL DIRECTORATE OF APPRENTICESHIP TRAINING (ER) C.G.O.
COMPLEX
MSO BUILDING
DF BLOCK
SECTOR- 1 E WING 1ST FLOOR
SALT LAKE
KOLKATA- 70006

Advocate for the Petitioner : MR. U K DAS, MS. B D SARMAH

Advocate for the Respondent : GA, ASSAM, SC, EMPLOYMENT AND CRAFTSMAN
TRAINING,ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 28.10.2024

Heard Mr. U. K. Das, learned counsel for the petitioner. Also heard Mr. S. P. Das, learned Standing Counsel for Employment and Craftsman Training (respondent nos. 1 and 3) and Ms. A. Gayan, learned CGC and Mr. K. Gogoi, learned Additional Senior Government Advocate for the State respondent.

2. By way of this writ petition under Article 226 of the Constitution of India, the petitioner is seeking release of contractual bill amount of Rs. 46,26,960/- allegedly outstanding to the petitioner pursuant to the service rendered under the Skill Development Initiative Scheme.

3. The facts of the case is that the petitioner was granted necessary

approval of Vocational Training Provider (VTP) registration under Skill Development Initiative Scheme of the Central Government for imparting training in total 10 numbers of courses vide letter dated 30-12-2012 (Annexure-3).

4. Accordingly, the petitioner after completion of the necessary formalities started imparting vocational training in the approved 10 courses as per the criteria laid down in the aforementioned scheme. The procedure for imparting training under the scheme was to be done on online portal of the department and the concerned authority issued Training Batch No. (TBN). After completion of the training, the concerned authorities issued assessment date by issuing online admit cards and examinations were conducted by the representatives of the said respondent authorities.

5. Thereafter, considering the numbers of passed out candidates, the bills were prepared and uploaded the online process in favour of the petitioner.

6. It is the specific case of the petitioner that as per the said scheme, the petitioner is entitled for claiming bills only against the passed out candidates of each batch in the SH CO rate prescribed in the scheme.

7. Thus, the petitioner after completion of the training course and declaration of results after examination conducted by the respondent authorities, submitted its bills (Annexure- 8, 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h, 8i, 8j, 8k, 8l, 8m, 8n, 8o, 8p to the writ petition) for total amount of Rs.46,26,960/-before the Director, Employment and Craftsman

Training, Assam.

8. It is the further case of the petitioner that meanwhile, the landlord sold the property wherein the petitioner's institute was running on lease and the petitioner started to shift the equipments and other belongings to the new college campus at Barhalia, Tezpur with prior intimation to the Respondent No.3 vide letter dated 13-09-2014. But, the inspection team visited the new campus on 11-10-2014 for inspection, when the shifting of the campus was completed only 20% and though the petitioner requested the inspection team to visit its old campus, the inspection team refused and submitted its report on the basis of assessment made at new college campus.

9. Thus, the registration of the petitioner was suspended vide letter dated 02-01-2015 (Annexure-6) without affording any opportunity of hearing to the petitioner. But, the aforesaid bills were submitted against the training provided prior to said suspension of registration.

10. However, till date the said bills have not been cleared by the respondent authorities in spite of funds being made available by the Central Government in that regard despite repeated approach and representations.

11. It is the specific case of the petitioner that the Government of Assam has sanctioned an amount of Rs.686.03 crores for the Financial Year 2017-18 for clearance of the liabilities of the VTPs like that of the petitioner and communicated vide letter dated 20-02-2018 and directed the Director, Employment and Craftsman Training, Assam to arrive at a conclusive decision as to the admissibility of the submitted due claims of

VTPs like the petitioner and to clear the claims chronologically and to ensure utilization of the fund amounting to Rs.686.03 Crores as per prescribed guidelines of SDI Scheme on or before 28-02-2018 and submit the utilization certificate to the Government.

12. However, the said direction has not been complied with and the respondent authority released some amount to other similarly situated VTPs excluding the petitioner without reasonable cause. Hence, this writ petition has been filed seeking adequate relief.

13. Pertinent that similarly situated institute has already approached this Hon'ble Court by filing W.P. (C) No.3294/2018 which has been disposed of vide Judgment and Order dated 16-09-2019 directing the Director of Employment & Craftsmen Training, Assam to take a decision regarding suspension of the vocational training provider of the petitioner society and release of the outstanding dues of the petitioner society within a period of 4 (four) weeks from the date of receipt of a certified copy of the order.

14. Mr. U. K. Das, learned counsel for the petitioner submits that despite providing the service in terms of the work order, bills which were admitted was not released for which the writ petition has to be filed.

15. Mr. S. P. Das, learned Standing Counsel for Employment and Craftsman Training submits that upon receiving fund from the Government of India, a sum of Rs. 45,18,918/- out of the total bill of the petitioner was paid. However, due to non receipt of further additional fund, the remaining balance amount of the petitioner's bill

could not be paid.

16. He further submits that by a communication dated 26.07.2023, the State Directorate had sought for additional fund of Rs. 10,62,17,030/- from the Government of India in order to release the pending contractual bill amount to the petitioner.

17. Ms. A. Gayan, learned CGC submits that affidavit-in-opposition filed in WP(C) No.1562/2022 shall be relied by the CGC in the instant writ petition. A copy of the said affidavit-in-opposition furnished by Ms. A. Gayan is accordingly kept on record.

18. She further draws the attention of this court to paragraph 7 of the aforesaid affidavit-in-opposition wherein a chart is laid out indicating the funds released and utilized thereof by the State Government of Assam/Assam Skill Development Initiative Society. She accordingly submits that requisite funds have already been released to the State Directorate.

19. Heard the learned counsels appearing for the contesting parties and perused the materials available on record.

20. A copy of the chart as laid out in paragraph 7 of the affidavit-in-opposition filed by the Government of India in WP(C) No.1562/2022 is reproduced hereunder for ready reference:-

7. That with regard to the averments made in Paragraph No. 5.14 of this Writ Petition, the deponent most respectfully states that The Skill Development Initiative (SDI) Scheme has been discontinued with effect from April 2017 by the Govt. of India. The scheme was a centrally Sponsored Scheme under which funds were released to all States/UTs at

the beginning of each financial year as an advance on the basis of their training target. Under the SDI scheme, the funds released by the Govt. of India were meant to be utilized as reimbursement of training costs, assessment fees to the Vocational Training Providers (VTPs), Assessing Bodies (Abs), and also as administrative expenses. It is vital to mention herein that the SDI scheme was not extended beyond 31.03.2017 and also no funds were allocated to any State/UT during the year 2016-17.

As per the guidelines of the scheme, it was the responsibility of the State Directorate to make necessary payment to the VTPs/Abs within 30 days of the receipt of the bills and the bills to be returned within 10 days from the date of receipt, in case of any discrepancies. In the case of the petitioner, it is evident that all the bills were submitted on or before 25.08.2015 and the same were required to be processed by the State as per the said guidelines.

As per records available, the funds released and their utilization by the State Govt of Assam/Assam Skill Development Initiative Society, since the inception of the SDI scheme are as under:

Sl No.	Financial Year	Fund released (in Rs.)	Fund utilised (in Rs.)	UC Received on
1	2007-10	76,00,000	These funds were allocated as one-time advance to 16 it is for starting the scheme and have been refunded to GOI.	
2	2010-11	5,01,56,000	NIL	NIL
3	2011-12	78,50,400	21,37,200	03/05/2014
4	2012-13	2,52,75,000	83,37,000	03/05/2014
5	2013-14	NIL	1,61,34,023	03/05/201

				4
			3,64,47,565	01/08/2014
			1,44,61,940	06/01/2015
			50,16,975	06/01/2015
6	2014-15	11,70,85,000	8,26,71,012	10/06/2015
			1,33,93,000	19/03/2016
7	2015-16	6,86,03,000	4,67,09,683	13/05/2019
			4,37,19,962	25/08/2020
	Total	27,65,69,400	27,66,28,360	

It is not clear as to why the State Government did not make necessary payment which was due to the petitioner, well within the prescribed time limit as per guidelines whereas funds were available under the scheme with the State Govt. of Assam. The fund availability under the scheme was there with the State till August 2020 (as above), from which payments to the VTPs/Abs were being made. Therefore, State Govt. maybe directed to release the payment after due verification of the bills submitted by the petitioner in 2015, from its own resources since there are no funds available under the SDI Scheme as it was not extended after 31.03.2017 by the Govt.

21. Apparent that for the year 2014-15 of which the contractual bill of the petitioner relates, the fund of Rs. 11,70,85,000/- was released to the State Directorate out of which 8,26,71,012/- is utilized.

22. It appears that the petitioner has performed the subject job by providing the services/training and therefore is entitled to the bill

submitted.

23. Non-releasing of the same on the ground of non-availability/non-release of funds cannot be a justifiable ground as the same infringes the right of the petitioner under Article 21 of the Constitution of India.

24. Be that as it may, this court, in the interest of justice, deems appropriate to dispose of the writ petition by directing the respondent authorities to release the balance contractual bill amount of the petitioner in accordance with law after due verification within a period of 3 (three) months from the date of the receipt of the certified copy of the court's order.

25. Ordered accordingly.

26. It is needless to be clarified that the respondent authorities shall co-operate with each other in order to facilitate the release of the petitioner's dues as directed by this court in the preceding paragraph herein above.

27. Disposed of.

JUDGE

Comparing Assistant