

GAHC010099752022



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

Case No. : WP(C)/3478/2022

M/S MANARANJAN BRAHMA ENTERPRISE
HAVING ITS REGISTERED OFFICE AT DOLAIGAON, UJANPARA,
BONGAIGAON, ASAM, PIN-783380,
REP. BY ITS SOLE PROPRIETOR
MANARANJAN BRAHMA

VERSUS

THE BODOLAND TERRITORIAL COUNCIL AND 5 ORS (B)
REP BY ITS PRINCIPAL SECRETARY,
KOKRAJHAR, BODOFA NWGWR, BTR, ASSAM,
PIN-783370

2:THE SECRETARY
BTC
WPT ND BC DEPARTMENT

KOKRAJHAR
BODOFA NWGWR
BTR
ASSAM
PIN-783370

3:THE ADDL. DIRECTOR
BTC
WPT AND BC DEPARTMENT
KOKRAJHAR
BODOFA NWGWR
BTR
ASSAM
PIN-783370

4:THE BDO

DOTOMA DEVELOPMENT BLOCK
NAWARBHITA
BAKSA
BTR
ASSAM
PIN-783347

5:THE BDO
KOKRAJHAR DEVELOPMENT BLOCK
KOKRAJHAR
BTR
ASSAM
PIN-783370

6:THE BDO
KOCHUGAON DEVELOPMENT BLOCK
KANUPARA
KOKRAJHAR
BTR
ASSAM
PIN-78336

Advocate for the Petitioner : MR. N J KHATANIAR,

Advocate for the Respondent : SC, BTC,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

02.08.2024

1. Heard Mr. K.N. Choudhury, learned Senior Counsel assisted by Mr. N.J. Khataniar, learned counsel for the petitioner. Also heard Mr. S.R. Rabha, learned counsel for all the respondents.

2. The petitioner's case is that the petitioner was awarded three supply orders, vide

(i) BTC/AD/CHD(WPT)-07/2017-2018/68 dated 08.11.2017 for supply of

1,00,000 Mosquito Nets for the Dotma Development Block,

(ii) BTC/AD/CHD(WPT)-07/2017-2018/66 dated 08.11.2017 for supply of 2,00,000 Mosquito Nets for the Kokrajhar Development Block and

(iii) BTC/AD/CHD(WPT)-07/2017-2018/67 dated 08.11.2017 for supply of 1,50,000 Mosquito Nets for the Kochugaon Development Block.

3. The petitioner's further case is that after the supply of the Mosquito Nets had been made, the total bill amounting to Rs.31,50,00,000/- was submitted to the respondent authorities for payment. The respondents thereafter paid Rs.13,00,00,000/- to the petitioner, with the balance amount of Rs.18,50,00,000/- remaining to be paid to the petitioner. As the same was not being paid, the petitioner filed the present writ petition, praying for payment of the balance amount of Rs.18,50,00,000/-.

4. The additional affidavit-in-opposition filed on behalf of the respondent nos.1 to 6 by the respondent no.1 on 07.06.2024, states in paragraph 4, 5 & 6 that the Project Director, DRDA Kokrajhar had submitted a list of 75,000 beneficiaries under BPL families approved under the WPT&BC for the year 2017-2018, for distribution of Mosquito Nets under Kochugaon Development Block and the same was authenticated by the Block Development Officer, Kochugaon, vide letter dated 20.02.2024, indicating that 1,50,000 Mosquito Nets were distributed to the beneficiaries. Further, the Mosquito Nets had been received from the petitioner.

5. In paragraph-5 of the additional affidavit, it was stated that 1 lakh

Mosquito Nets which were to be distributed to 1,00,000 beneficiaries in the Dotma Development Block had been received from the petitioner.

6. In paragraph-6 of the additional affidavit, it was stated that there was a list of 1,00,000 beneficiaries under the BPL families approved under the Kokrajhar Block, Titaguri and the same had been authenticated by the Block Development Officer under the Kokrajhar Development Block. It was also stated that the list of beneficiaries would be produced at the time of hearing.

7. Paragraph-4, 5 & 6 of the additional affidavit-in-opposition filed on behalf of the respondent nos.1 to 6 by the respondent no.1 on 07.06.2024 is reproduced below, as follows:

“4. That the deponent begs to state that vide letter no. KRD/WPT/Material/2/pt-1/2017-18/88 dated 11.12.2017, the Project Director DRDA Kokrajhar has submitted a list of beneficiaries of 75,000 under BPL families approved under WPT & BC for the year 2017-18 for distribution of mosquito nets under Kachugaon Development Block and the same has been authenticated by the Block Development Officer Kachugaon Development Block vide his letter No. No.KDB- 65/Misc./2023-24/8911 dated 20.02.2024 indicating that 150000 nets (2 nos. per beneficiary) were distributed to the genuine BPL beneficiaries under the Development Block by the predecessor officer and as per office records those mosquito nets were received from M/S Manaranjan Brahma Enterprise Kokrajhar. The deponent craves leave for producing the list of beneficiaries at the time of hearing since it is not feasible to make annexures because of its size and volume. However, the authentication letter has been annexed with this additional affidavit.

A copy of the cover letter No. KRD/WPT/Material/2/pt-1/2017-18/88 dated 11.12.2017 containing the list of beneficiaries along along with the authentication letter no. KDB-65/Misc./2023-24/8911 dated 20.02.2024 is

enclosed herewith and marked as Annexure-I.

5. That the deponent begs to state that vide letter no. KRD/WPT/Material/2/pt-1/2017-18/75 dated 27.11.2017, the Project Director DRDA Kokrajhar has submitted a list of beneficiaries of 1,00,000 under BPL families approved under WPT & BC for the year 2017-18 for distribution of mosquito nets under the Dotma Development Block, Dotma and the same has been authenticated by the Block Development Officer under the Dotma Development Block, Dotma vide his letter No. DDB-7/Misc/2017-18/1063 dated 23.02.2024 indicating that 1,00,000 nets (2 and 3 nos. per beneficiary) were distributed to the genuine BPL beneficiaries under the Development Block by the predecessor officer and as per office records those mosquito nets were received from M/S Manaranjan Brahma Enterprise Kokrajhar. The deponent craves leave for producing the list of beneficiaries at the time of hearing since it is not feasible to make annexures because of its size and volume. However, the authentication letter has been annexed with this additional affidavit.

A copy of the cover letter No. KRD/WPT/Material/2/pt-1/2017-18/75 dated 27.11.2017 along with the authentication letter no. DDB-7/Misc/2017-18/1063 dated 23.02.2024 is enclosed herewith and marked as Annexure-II.

6. That the deponent begs to state that vide letter no. KRD/WPT/Material/2/pt-1/2017-18/77 dated 20/11/2017, the Project Director DRDA Kokrajhar has submitted a list of beneficiaries of 1,00,000 under BPL families approved under WPT & BC for the year 2017-18 for distribution of mosquito nets under the Kokrajhar Development Block, Titaguri and the same has been authenticated by the Block Development Officer under the Kokrajhar Development Block, Titaguri vide his letter No. KDB-166/MISC/2020-21 dated 23.02.2024. The deponent craves leave for producing the list of beneficiaries at the time of hearing since it is not feasible to make annexures because of its size and volume. However, the authentication letter has been annexed with this additional affidavit.

A copy of the cover letter No. KRD/WPT/Material/2/pt-1/2017-18/77 dated 20.11.2017 along with the authentication letter no. KDP-166/MISC/2020-21/8911 dated 23.02.2024 is enclosed herewith and marked as Annexure-III.

8. The additional affidavit at paragraph- 4 & 5 above, had authenticated the fact that the petitioner had supplied 1,50,000 Mosquito Nets to the Kochugaon Development Block and 1,00,000 Mosquito Nets to the Dotma Development Block. However, as there was no specific averment made in paragraph-6 of the additional-affidavit that the petitioner had supplied 2,00,000 Mosquito Nets for the Kokrajhar Development Block, this Court, vide order dated 26.07.2024, had directed the respondents counsel to obtain instructions with regard to paragraph-6 of the additional affidavit dated 07.06.2024, clarifying whether Mosquito Nets had been supplied by the petitioner for the Kokrajhar Development Block.

9. The second additional affidavit-in-opposition has been filed on behalf of the respondent nos.1 to 6 by the respondent no.1 on 01.08.2024, which states that the petitioner had supplied 2,00,000 Mosquito Nets for distribution to 1,00,000 beneficiaries under BPL families approved under the WPT&BC for the year 2017-2018. The second additional affidavit further states that the petitioner's claim was being examined and once the process was complete, the decision with regard to payment of petitioner's claim would be made, by following the directions passed in ***Tamsher Ali vs. State of Assam & Others***, reported in ***2008 (4) GLT 1***.

10. The counsel for the respondents submits that as the case of the petitioner is being examined in terms of the Full Bench judgment of this Court in ***Tamsher Ali (supra)***, the writ petition can be disposed of.

11. Mr. K.N. Choudhury, learned Senior Counsel for the petitioner submits that he has no objection to the proposal made by the respondents' counsel.

However, a specific timeframe should be made for examining the petitioner's case by the State respondents and for payment of the admitted amount.

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

13. Paragraph-3, 4 & 5 of the second additional affidavit filed on behalf of the respondent nos.1 to 6 by the respondent no.1 on 01.08.2024 is reproduced below, as follows :

“3. That the deponent begs to state that he has already filed an additional affidavit-in-opposition in connection with this instant writ petition. However, this Hon'ble Court, by an order dated 26.07.2024, was pleased to direct the respondent authorities to clarify whether the 2 lakh mosquito nets mentioned in paragraph 6 of the additional affidavit-in-opposition dated 07.06.2024, had been supplied by the petitioner to the Kokrajhar Development Blocks, the deponent begs to place such facts/data on record by way of filing this additional affidavit.

4. That the deponent begs to state that vide letter No. KRD/WPT/Material/2/pt-1/2017-18/77 dated 20/11/2017, the Project Director DRDA Kokrajhar has submitted a list of beneficiaries of 1,00,000 under BPL families approved under WPT & BC for the year 2017-18 for distribution of mosquito nets (2 nos. per BPL family) under the Kokrajhar Development Block, Titaguri without any indication of receipt of those mosquito nets. In this connection, the deponent begs to state that it is a fact that there is no acknowledgement about the receipt of the mosquito nets in the aforesaid communication, however, records reveal that 2,00,000 mosquito nets have been received from the petitioner and the same is authenticated by the Block Development Officer under the Kokrajhar Development Block, vide challan No.101 dated 15.11.2017

which was submitted by the petitioner.

A copy of the challan No.101 dated 15/11/2017 is hereby annexed as ANNEXURE-IV.

5. Further, the deponent begs to state that the petitioner's claim is being examined and once process is complete, 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."

14. As can be seen from the two additional affidavits filed on behalf of the respondent nos.1 to 6 by the respondent no.1, the respondents are examining the amount payable to the petitioner, for supply of 4.5 lakh Mosquito Nets for distribution under the WPT & BC for the year 2017-2018. Accordingly, this Court is of the view that nothing further needs to be adjudicated at this stage.

15. Accordingly, in view of the stand taken by the State respondents that the claim of the petitioner for payment of outstanding dues is being examined for supply of 4,50,000 Mosquito Nets, which have been distributed to the identified BPL families under the WPT&BC for the year 2017-2018, in terms of the Full Bench judgment of this Court in ***Tamsher Ali (supra)***, this Court directs that the examination being done by the State respondents should be concluded and payment made for the admitted amount, within a period of 4 (four) months from the date of receipt of a certified copy of this order.

16. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant