GAHC010119352019

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

Case No. : WP(C)/3596/2019

M/S. SAHA TRADERS
REP. BY SHOBHAN KR. SAHA
S/O- NEPAL CH. SAHA
R/O- MAHAMAYA NAGAR
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM
DISPUR
GHY-6

2:THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GHY-06
3:THE SECY. TO THE GOVT . OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GHY-06
4:THE COMMISSIONER
LOWER ASSAM DIVISION
PAN BAZAR
GHY-1
5:THE SUPERINTENDENT OF POLICE
CHIEF MINISTERS SPECIAL VIGILANCE CELL
ASSAM

ULUBARI
GHY-7
6:THE DY. COMMISSIONER
SOUTH SALMARA MANKACHAR DIST.
P.O. HATSINGIMARI
DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135
7:THE CIRCLE OFFICER
MANKACHAR REVENUE CIRCLE
MANKACHAR
P.O. MANKACHAR
DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN-- 783131
8:THE CIRCLE OFFICER
SOUTH SALMARA
P.O. AND P.S. SOUTH SALMARA
DIST- SOUTH SALMARA MANKACHAR
PIN- 783127

Advocate for : MR R ISLAM
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 7 ORS.

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 22.05.2024

Heard Mr. T. J. Mahanta, learned Senior counsel assisted by Mr. R. Islam, learned counsel for the petitioner. Also heard Mr. A. Bhattacharjee, learned Standing Counsel, Revenue and Disaster Management and Mr. M. Chetia, learned Government Advocate for the State respondents.

By filing this petition under Article 226 of the Constitution of India, the writ petitioner is seeking release of the unpaid supply bills of the petitioner amounting to Rs. 34,43,086/-.

The case in brief is that pursuant to a advertisement for supplying of relief goods for distribution amongst the flood/ erosion and other natural calamities affected people of South Salmara Mankachar District, the petitioner submitted his quotation and the same was accepted by the respondent authorities.

Accordingly the petitioner supplied relief materials to the satisfaction of the respondent authorities. Despite of such supply, the bill of the respondent authorities has till date not been released.

Accordingly the writ petition has been filed.

Attention of this Court has been drawn to the affidavit-in-opposition filed on behalf of the respondent Nos. 2 and 3 in WP(C)/3585/2019, pursuant to order passed by this Court on 27.09.2023 and 09.04.2023, which covers the present case also.

Paragraphs 5, 6, 7 and 8 of the said affidavit is reproduced hereunder for ready reference:-

"5. *That in the mean time, pursuant to al Complaint filed on 30.10.2016 by one Md. Abdul Akher Shah alleging certain discrepancies in the supply orders before the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management, Assam, an enquiry was directed to be conducted by the Divisional Commissioner, Lower Assam Division, Guwahati vide letter dated 21.12.2016. Thereafter, the Divisional Commissioner, Lower Assam Division submitted his enquiry report on 16.09.2017 whereby recording his finding that there was no devastating flood in South Salmara during the flood which was reported by the then Deputy Commissioner and other officer concerned along with the other*

office staff. It is stated herein that in his aforementioned enquiry report, the Divisional Commissioner, Lower Assam Commission had also recommended to conduct an enquiry by a competent Government Investigating Agency. On the basis of such recommendation, Revenue & DM Department had requested the Superintendent of Police, Chief Minister's Special Cell, Dispur for initiating necessary Assam District regarding G.R. fund of 2016-17. It is on the basis of the said enquiry report submitted by the Commissioner, Lower Assam Division and pendency of the investigation conducted by the Chief Minister's Special Vigilance Cell that the Principal Secretary to the Government of Assam, Revenue & DM Department issued the speaking order dated 24.10.2018 whereby declining to make payments against the claim of the petitioner and the said order is impugned in the present writ petition.

6. That on 04.12.2022 the enquiry report from the Chief Minister's Special Vigilance Cell was received by the office of the Principal Secretary. Revenue and Disaster Management Department, Assam wherein the CM's SVC recorded that during 2016-17 there was devastating flood in South Salmara Mankachar District. Rescue and relief operations were carried out as per standard norms on receipt of relief material from the selected suppliers. No anomalies have been noticed and no evidence has been found in support of allegation. Therefore SVC suggested that the enquiry may be closed as unsubstantiated. Later on, it was also clarified by SVC that District Administration of South Salmara Mankachar District had not purchased G.R. materials more than demand placed by the two Circle Officers and Officers of other Departments.

7. That upon receipt of two enquiry reports containing contrasting findings, a Committee was constituted by the Revenue and Disaster Management Department to examine the reports and submit its reports on the matter.

8. That the committee constituted with the officers of the Revenue & DM Department has further scrutinized the report received from the CM Vigilance Cell. Based on the report from CM's Special VC and from the report of the internal committee of Officers of the Department, the following findings are submitted accordingly:

(1) There was devastating flood in the district in 2016 and relief operations were carried out as per standard norms on receipt of relief materials from the suppliers and anomalies have been noticed and no no evidence has been found in support of the allegations, as reported by enquiry Officer, CM's SVC.

(2) Having examined all documents/ report, the committee was of the opinion that there was a devastating flood in both Mankachar and South Salmara Revenue Circles during July-Aug, 2016, and

(3) The then District administration of the district undertook effective flood management measures to address the situation and no deliberate lapse or intension to mislead the Govt. could be established, and

(4) Both the Circle officers of the District were duty bound to inform the DC concerned about the on-field situation and submit indent of GR fund, if

situation demanded."

Reading of the aforesaid averments indicates that a Committee was constituted to scrutinize the report received from the Chief Minister's Vigilance Cell in relation with the bill submitted by the petitioner.

It appears that the said Committee has held that the petitioner has supplied the relief materials to the flood affected persons to the satisfaction of the respondent authorities.

Pertinent that on 21.05.2024, this Court after noting the aforesaid paragraphs sought instruction from the Revenue Department as regard the time frame within which the aforesaid dues can be released to the petitioner.

Today when the matter has been called, an instruction dated 22.05.2024, has been placed before this Court, by Mr. A. Bhattacharjee, learned Standing Counsel, Revenue and Disaster Management issued by the Joint Secretary of the Government of Assam, Revenue and Disaster Management Department dated 22.05.2024 indicating that the bills of the petitioner shall be released within a period of 3(three) months.

It is regrettable that despite the petitioner having supplied the relief materials way back in the year 2016-17, the bills of the petitioner have not been paid till date.

Non-release of the legitimate dues of the petitioner amounts to violation of Article 21 of the Constitution of India.

Be that as it may, in view of the consensus made by the Department of Revenue, this writ petition can be disposed of with a

direction to the respondent authorities to release the outstanding dues of the petitioner within a period of 3(three) months from the date of receipt of the certified copy of the order.

With the observation and direction this writ petition stands disposed of.

A copy of the instruction dated 22.05.2024 submitted by Standing Counsel, Revenue Department is kept on record and marked as 'X'.

JUDGE

Comparing Assistant