

GAHC010117722023



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

Case No. : WP(C)/3153/2023

DANIEL BRAHMA
S/O- MANIRAJ BRAHMA, R/O- J.D. ROAD, KOKRAJHAR, P.O., P.S. AND DIST.
KOKRAJHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR,
GUWAHATI, ASSAM, PIN- 781006.

2:THE JOINT SECRETARY
SOCIAL WELFARE DEPARTMENT
DISPUR
GUWAHATI
ASSAM
PIN- 781006.

3:THE DIRECTOR

WOMEN AND CHILD DEVELOPMENT
GUWAHATI
ASSAM
PIN- 781001.

4:THE DIRECTOR

SOCIAL JUSTICE AND EMPOWERMENT
LAKHI MANDIR
BELTOLA
GUWAHATI
ASSAM

PIN- 781028

5:THE DISTRICT SOCIAL WELFARE OFFICER

KOKRAJHAR
ASSAM

6:THE CHIEF ENGINEER
PWD (BUILDING)
CHANDMARI
GUWAHATI
ASSAM
PIN- 781003.

7:THE SUPERINTENDING ENGINEER
PWD (R AND B) CIRCLE
KOKRAJHAR.

8:THE EXECUTIVE ENGINEER
PWD
KOKRAJHAR DISTRICT AND CHIRANG DISTRICT
TERRITORIAL BUILDING DIVISION
KOKRAJHAR.

9:THE ASSISTANT EXECUTIVE ENGINEER
PWD
KOKRAJHAR TERRITORIAL BUILDING SUB-DIVISION
KOKRAJHAR.

10:THE DIVISIONAL FOREST OFFICER
PARBATJHORA DIVISION
SUPARIGHAT
BODOLAND TERRITORIAL COUNCIL
ASSAM

11:THE DIRECTOR OF SOCIAL WELFARE

ASSAM
UZAN BAZAR

GUWAHATI
ASSAM
PIN-781001.

12:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
DISPUR

GUWAHATI
ASSAM

Advocate for the Petitioner : MR. D CHOUDHURY, MR T CHAKRABORTY,MR J DAS,MS B CHOUDHURY

Advocate for the Respondent : GA, ASSAM, MR. S S ROY (R-12),SC, SOCIAL JUSTICE AND EMPOWERMENT,SC, PWD,SC, BTC,SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

12.08.2024

1. Heard Mr. D. Choudhury, learned counsel for the petitioner. Also heard Ms. A. Lodha, learned counsel for the respondent No.4; Ms. S. Boro, learned counsel appearing on behalf of Ms. R.B. Bora, learned counsel for the BTC and Mr. H. Baruah, learned counsel appearing on behalf of Mr. B. Gogoi, learned counsel for the respondent No.6.

2. The petitioner's case is that he had participated in a tender process for construction of an Observation Home for Children at Bedlangmari, Kokrajhar. The contract was awarded to the petitioner and an agreement was executed on 27.08.2019 for the estimated cost of Rs.1,81,24,781/-. On successful completion of the contract work on 05.05.2022, the site was handed over to the concerned District Welfare Officer under the Social Welfare Department. Further, the PWD gave a completion certificate in respect of the said work. However, despite the completion of the contract work, the respondents have not released the contractual dues of the petitioner amounting to Rs.1,81,23,504/-.

3. It is seen from the affidavit filed by the respondent No.8 that the petitioner

had completed the construction work and that a demand proposal for payment of Rs.1,81,23,503/- had been submitted to the Chief Engineer, PWD (Building), vide letter dated 28.09.2022 issued by the Executive Engineer, PWD Kokrajhar & Chirang District Territorial Building Division, Kokrajhar.

4. Ms. A. Lodha, learned counsel appearing for the respondent No.4 submits that the payment for the contract work is to be made by the respondent No.3 and not by the respondent No.4.

5. Mr. K. Gogoi, learned counsel for the respondent No.3 has submitted a letter No.BTC/LR-503/2024/16 dated 07.08.2024 issued by the Joint Secretary, Bodoland Territorial Council, Kokrajhar, which states as follows:-

“Sub: Approval for allotment of land.

Ref: No. KRC-15/2020/371, dated 02/08/2024

Sir/Madam,

With reference to the subject cited above, I am directed to say that the Bodoland Territorial Council is pleased to approve the proposal for allotment of land measuring 05B- 04K-18L (out of 617B-00K-06L) Saloni class of land covered by Dag No.35/33 (Pt) of Village Bedlangmari under Mouza- Rokakhata for setting up of the proposed Observation Home under Social Welfare Department, BTC as per proposal submitted by you vide letter under reference.

The land record may be corrected accordingly. All relevant documents received with your proposal under reference are returned herewith for your necessary action.”

6. Mr. K. Gogoi has also submitted letter No.E-138049/249 dated 08.08.2024 issued by the Joint Secretary to the Govt. of Assam, Women & Child Development Department addressed to the respondent No.3, requesting the Director to submit a revised proposal of administrative approval for construction of Observation Home,

Bedlangmari, Kokrajhar, in view of the change of Head-of-Account in the current budget.

7. The contents of the letter dated 08.08.2024 are reproduced hereinbelow as follows:-

“Sub: Submission of revised proposal for Administrative Approval for construction of Observation Home, Bedlangmari, Kokrajhar.

Ref: Your Letter No. DWCD(ICDS)G/104/2017/Pt/406 Dated 08.07.2022

Sir,

In inviting a reference to the letter cited above, I am directed to request you to submit a revised proposal of Administrative Approval for construction of Observation Home, Bedlangmari, Kokrajhar in view of change of Head-of-Account in the current budget.

You are further requested to submit re-appropriation proposal subsequently in case current year budget provision does not cover the bill amount.

This is for favour of your kind information and necessary action.”

8. Mr. K. Gogoi, thus submits that in view of the above letters, a revised proposal for administrative approval for construction of Observation Home in Bedlangmari, Kokrajhar will be made and thereafter, the admitted amount payable to the petitioner will be paid. In this regard, he has relied upon another letter No.DWCD(LC)24/2024/8 dated 08.08.2024 issued by the respondent No.3, which states as follows:-

“Sub: Additional instruction in respect of WP(C)No.3153/2023, Daniel Brahma -Vs-The State of Assam & Ors.

Ref: 1. Earlier letter No. No.DWCD (LC)24/2024/6, dated 08-08-2024.

2. Letter No. ASGA/GB/2024/5296-5297, dated 10-06-2023.

3. Hon'ble Court's order dtd. 06-08-2024 passed in WP(C)No.3153/2023.

Sir,

With reference to the subject cited above and in addition to the earlier instruction, I would like to inform you that on receipt of intimation regarding approval for allotment of land issued by BTC, Kokrajhar on 07-08-2024 to set up Observation Home in Kokrajhar, the same was communicated to Govt. in Women and Child Development on 08-08-2024. In response, Govt. in WCD vide E-138049/249, dated 08-08-2024 has requested to submit proposal for Administrative approval (Revised) from this end for construction of the said Observation Home in Kokrajhar in view of change of Head-of- account in the current budget as well as subsequent re-appropriation proposal in the matter, in case current year budget provision does not cover the bill amount (Copy of earlier instruction and Govt. letter dated 8-8-2024 enclosed at Annexure-A, B respectively).

Therefore, you are hereby requested to apprise before the Hon'ble court accordingly and also requested to allow 2(two) weeks' time to submit revised proposal for Administrative approval for construction of the said Observation Home in Kokrajhar.

This is for favour of your kind information and necessary action."

9. I have heard the learned counsels for the parties.
10. The letter dated 07.08.2024 and the two letters dated 08.08.2024 are made a part of the record and marked as Annexures-X, Y & Z respectively. The above letters clearly go to show that the State respondents have admitted their liability towards the petitioner for payment of his dues.
11. The respondents are accordingly directed to submit a reappropriation proposal/ revised proposal for administrative approval for construction of the Observation Home in Kokrajhar and make funds available for payment of the

admitted amount of Rs.1,81,23,503/- to the petitioner. The entire exercise should be concluded within a period of 4(four) months from the date of receipt of a certified copy of this order.

12. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant