

GAHC010120192024



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

Case No. : WP(C)/3472/2024

PAWAN KUMAR AGARWALLA
PROPRIETOR OF M/S GLOBEL INDIA, HAVING ITS OFFICE AND PLACE OF
BUSINESS AT PUBERUN PATH, BASISTHA ROAD, GUWAHATI-781029,
KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT, DISPUR,
GUWAHATI-781006, KAMRUP(M), ASSAM

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
DISPUR
GUWAHATI-781006
KAMRUP(M)
ASSAM

3:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
DISPUR
GHY-781006
KAMRUP(M)
ASSAM

4:THE DIRECTOR
WOMEN AND CHILD DEVELOPMENT
GOVT. OF ASSAM
DIRECTORATE OF WOMEN AND CHILD DEVELOPMENT UZANBAZAR
GHY-781001
KAMRUP(M)

ASSA

Advocate for the Petitioner : MR A K RAI, MS. K AGARWAL,MR B YADAV,MS RICHA JHA

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

21.10.2024

Heard Mr. A.K. Rai, learned counsel for the petitioner. Also heard Mr. M. Chetia, learned counsel appearing for all the respondents.

2. Mr. A.K. Rai, learned counsel for the petitioner submits that in pursuance to a tender for supply of office stationeries, miscellaneous articles and equipments under the Directorate of Social Welfare, Assam and its district and subordinate offices, the petitioner supplied articles/materials/equipments amounting to Rs.7,55,66,962/-. However, the requests of the petitioner for release of the outstanding bill amounts have not been complied with by the respondents till date.

3. Mr. M. Chetia, learned counsel for the respondents submits that though the petitioner is liable to be paid the amount claimed by him, the same has not been made due to non-availability of funds. He submits that though proposals for sanction of the amount have been made to the State Government, no sanction order has been received from the Government till date.

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

5. Para 3, 4 & 5 of the affidavit-in-opposition filed on behalf of the respondent No.4 by the Joint Director, Women & Child Development, Assam, is to the following effect-

“3. That the deponent states that "M/S Global India" has supplied office stationeries and miscellaneous articles and equipment for an amount of Rs. 7,55,66,962/- (Rupees Seven Crores Fifty Five Lakhs Sixty Six Thousand Nine Hundred Sixty Two) only as per this office orders vide No. DSW(G)82/2014/87 dated 10.11.2014 and No.DSW(G) 182/2014/96, dated 22.04.2016. After completion of work, they have submitted the bills, but due to non-availability of fund the payments could not be made.

4. That the deponent states that a meeting of the outstanding bills verification committee was held on 26.07.2022 and decided to propose sanction of outstanding bills under the Head of account "2235-Social Security and Welfare-02-Social Welfare-102- Child Welfare- 0177-Implementation of ICDS Scheme-927-CS-32- Grants-in-Aid (Non-salary)-99-Other-CSS-V-GA". Accordingly, proposal for sanction of Rs. 7,55,66,962/- (Rupees Seven Crores fifty five lakhs sixty six thousand nine hundred sixty two) only in respect of M/S Global India has been submitted to the Govt. for sanction vide letter No. DWCD(ICDS)E/13/2022/59 dated 29.09.2023. But, no sanction has been received from Govt. during the financial year 2023-24.

5. That the deponent further states that proposal for Contingency Fund Advance for an amount of Rs. 755.67 lakhs vide letter No. DWCD(ICDS)E/13/2022/212 dated 07.08.2024 is submitted to the Govt. as per direction of the Govt. vide letter dated 22.07.2024 for approval.”

6. As can be seen from the averments made and the documents on record, the petitioner has been given various supply orders from the year 2014 till the year 2020, for supply of various stationery articles. However, no payments have been made by the State respondents for a long period of time. The Government has only been making orders for supply of stationery articles without appearing to have made any funds available for payment of the supplied articles. The manner in which the State Government has been denying payment to the petitioner, while taking stationery articles from the petitioner, is blatantly wrong

and unfair. As the respondents have categorically admitted to the fact that they owe the petitioner the amount of Rs.7,55,66,962/-, this Court directs the respondents to make available the funds and to pay the petitioner the said amount within a period of 4(four) months, from the date of receipt of a certified copy of this order.

7. The writ petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant