

GAHC010155062022



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

Case No. : WP(C)/5128/2022

MUSHARAF ALI
S/O SADEK ALI,
VILLAGE- MAJORTOP GAON,
P.O.- TUKRA PARA, PIN- 781137,
P.S.- CHHAYGAON, KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
WATER RESOURCE DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER
WATER RESOURCES DEPARTMENT
ASSAM CHANDMARI GUWAHATI-3.

3:THE SUPERINTENDING ENGINEER
PALASHBARI TOWN PROTECTION CIRCLE
WATER RESOURCE DEPARTMENT
BHARALUMUKH GUWAHATI-9.

4:THE EXECUTIVE ENGINEER
GUWAHATI WEST WATER RESOURCES DIVISION
BHARALUMUKH
GUWAHATI-9

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : SC, WATER RESOURCE

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 06.02.2024

Heard Ms. S. G. Baruah, learned counsel for the petitioner and Mr. C. Sarmah, learned counsel, representing Mr. R. M. Das, learned Standing Counsel, Water Resources Department.

2. The petitioner's case in brief is that pursuant to a preliminary work order dated 15.11.2012, vide reference No. GWD/TECH/NIT/M/2010-11/1 dated 25.11.2011 with regard to the contract work, i.e., A/E measures to protect B/Dyke on L/B from Gumi to Kalatoli at Goroimari Majortop area in between Ch.27.80 km to Ch. 31.90 km issued by the respondent No. 4, the petitioner was allotted the above referred contract work.

3. The petitioner on completion of the work submitted his bills amounting to Rs. 1,02,000/-. However, despite representations being made by the petitioner, the respondents did not clear the bills of the petitioner.

4. The petitioner's counsel submits that a batch of writ petitions, where similar issues have been raised, had been disposed of by this Court vide order dated 27.09.2022, the lead case being WP(C) 4734/2021. She accordingly submits that the directions passed in WP(C) 4734/2021 vide order dated 27.09.2022, should also be issued in the present case.

5. Mr. C. Sarmah, learned counsel for the Water Resources Department, on the other hand, submits that the Flood Management Program Scheme, in which the petitioner had a contract work, provided that both the State Government and the Central Government would have to provide funds in the ratio of 70:30%. However, due to non-receipt of Central share fund, payment to the

petitioner could not be cleared in time. Though the petitioner was issued a formal work order dated 15.11.2012 for Rs. 1,02,000/-, part payment of Rs.34,625/- has already been made to the petitioner. The outstanding liability of Rs. 67,375/- will be paid to the petitioner, only after receiving Central funds from the Ministry of Jal Shakti Board, Government of India.

6. The respondent's counsel also admits to the fact that similar cases have been disposed of by this Court in WP(C) 4734/2021 etc., vide order dated 27.09.2022.

7. On perusing the order dated 27.09.2022 passed by a Co-ordinate Bench of this Court in WP(C) 4734/2021, it is seen that certain directions were issued to both the State as well as the Central Government to release dues payable to the petitioner. As the present case is similar to the facts in WP(C) 4734/2021, this writ petition is disposed of, in terms of the direction passed in the order dated 27.09.2022 in WP(C) 4734/2021, which are as follows:-

“In view of the above, these writ petitions are being disposed of with the following directions:-

(1) Within 15 (fifteen) days from today, the concerned official of the State Government of Assam will communicate the supplementary budget passed in the last Assembly Session pertaining to the scheme to the competent authority of the Ministry of Jal Shakti, Government of India.

(2) Within 60 (sixty) days from the date of receipt of such communication, the Ministry of Jal Shakti to release the amount due under the schemes to the concerned Department of the Government of Assam.

(3) Upon receipt of the amount, bills of the writ petitioners shall be processed and cleared within a further period of 45 days."

8. This Court also finds that a similar case being WP(C) 5270/2022 was disposed of vide order dated 22.09.2023, in terms of the order dated 27.09.2022 passed in WP(C) 4734/2021.

9. In view of the above, the respondents are directed to complete the entire process of payment of the unpaid contractual bill of Rs. 67,375/-, within a period of 4 (four) months from the date of receipt of a copy of this order.

10. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant