

GAHC010158742023



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

**Case No. : WP(C)/4102/2023**

FIROZ HUSSAIN AND ANR  
S/O- LATE ABDUL HUSSAIN,  
R/O- M.AZAD ROAD, NEAR INDIAN OVER SEAS BANK,  
P.O. AND P.S.- NAGAON, SADAR,  
DISTRICT- NAGAON, ASSAM.  
PIN- 782001.

2: PYRE ROSE KHAN  
S/O- LATE SULTAN ALI KHAN

R/O- A.D.P. ROAD CHRISTIAN PATTY

P.O. AND P.S.- NAGAON  
SADAR

DISTRICT- NAGAON  
ASSAM.  
PIN- 782001

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,  
WATER RESOURCES DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER  
WATER RESOURCES DEPARTMENT  
ASSAM  
BASISTHA  
GUWAHATI-29.

3:THE SUPERINTENDENT ENGINEER  
WATER RESOURCES DEPARTMENT

DIVISION  
MORIGAON- 782001.

4:THE EXECUTIVE ENGINEER  
WATER RESOURCES DEPARTMENT  
MORIGAON  
PIN- 782001.

5:THE ASSISTANT EXECUTIVE ENGINEER  
WATER RESOURCES DEPARTMENT  
MORIGAON  
PIN- 782001.

6:UNION OF INDIA  
MINISTRY OF JAL SHAKTI E-GONERNANCE CELL

6TH FLOOR CABIN  
SHRAM SHAKTI BHAWAN  
RAFI MARG  
NEW DELHI-110001

**Advocate for the Petitioner** : MRS. K K CHOUDHURY

**Advocate for the Respondent** : SC, WATER RESOURCE

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**03.04.2024**

1. Heard Mrs. K.K. Choudhury, learned counsel for the petitioners. Also heard Mr. D. Upamanyu, learned counsel appearing on behalf of Mr. K. Gogoi, learned CGC appearing for the respondent no.6 and Ms. A. Lodha learned counsel for the respondent nos. 1-5.
2. The petitioners herein are registered contractors with the Water Resources Department, Morigaon. They are aggrieved with non-payment of their balance bills for the works done by them under the Scheme of "R/S to T/dyke along

both banks of Kopilli River from Charaihagi to Tuklaitup (L/B), Basundhari to Killing Kopilli Junction (L/B) and Chaparmukh Ahatguri Amsoi P.W.D. Road (R/B) Including Anti-Erosion measures at different reaches.”

3. The petitioners’ counsel submits that the outstanding payment to be made to the petitioner no.1 is Rs.7,41,365/, while Rs.8,64,249/- is to be paid to the petitioner no.2. She submits that as the respondents have admitted that they are liable to pay the above two amounts to the petitioners, i.e. total amount of Rs.16,05,614/-, a direction may be issued to the respondents to pay the same within a stipulated time period.

4. Ms. A. Lodha, learned counsel for the Water Resources Department submits that in terms of the affidavit-in-opposition filed on behalf of the respondent no.2, the petitioners are to be paid their balance due amount of Rs.16,05,614/-. However, the same could not be paid as the central share for the scheme had not been given by the Central Government to the concerned State Department. She submits that as and when the fund is received from the Central Government, the payment will be paid to the petitioners.

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

6. The claim of the petitioner no.1 amounting to Rs.7,41,365/- and the claim of the petitioner no.2 amounting to Rs. 8,64,249/- has been admitted by the State respondents in paragraph-8 of the affidavit-in-opposition.

7. Paragraph-8 of the affidavit-in-opposition is reproduced hereinbelow, as follows :

*“8. That the deponent begs to state that the work was allotted to the petitioners against the above mentioned scheme and after receiving the aforesaid work orders, the petitioners executed the work. After satisfactory progress/completion of work, bills were prepared. The scheme is under FMP (Flood Management Programme) under XI Plan & the Head of Account is i) 4711-01-103-0120-977-13-99- SOPD-SS-GA-V (State Share) & ii) 4711-01-103-0120-977-13-99- SOPD-LS-GA-V (Central Share). The Administrative Approval was accorded by the Government and Technical Sanction was issued by the then Chief Engineer, Water Resources Department, Assam vide No. WR(C) 2/2011/7 dated 17.08.2011 and WR (ED) Tech/6044/09/53 dated 26.02.2011 respectively. The estimated amount of the scheme was Rs. 11062.00 lakh out of which 90% was supposed to be borne by the Government of India under central share and the remaining 10% was supposed to be borne by the Government of Assam under the state share. A sum of Rs. 2914.20 lakhs has been received as central share and Rs. 1335.844 lakhs has been received as state share respectively. The total bill value of the petitioners against all the work order issued against the said scheme is Rs. 5151829.00 and out of which payment has been made proportionately for Rs. 3546215.00 till date leaving balance amount of 1605614.00. It is a fact that full payment to the petitioners could not be made as full amount of fund is yet to be received by the Department from the Central Government. The Department is taking all possible steps for release of fund from the Central Government.”*

8. As the total amount of Rs.16,05,614/- is admitted to be the outstanding liability of the State respondents payable to the petitioners, in the ratio stated above, the respondents are directed to make arrangements for the fund and pay the same to the petitioners, within a period of 5 (five) months from the date of receipt of a certified copy of this order.

9. This writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**