

GAHC010177832023



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

Case No. : WP(C)/4701/2023

M/S EDEN ENTERPRISE
PROP.- KAMAL KUMAR BHUYAN,
PERMANENT RESIDENT OF VILL/TOWN- ARUNABH PATH,
PO- LAKHIMI-NAGAR,
UNDER P.S.- HATIGAON,
IN THE DISTRICT OF KAMRUP(M),
GUWAHATI- 781038, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
IRRIGATION DEPARTMENT,
GOVERNMENT OF ASSAM,
ASSAM, DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT
GOVERNMENT OF ASSAM
CHANDMARI
GUWAHATI-3.

3:THE EXECUTIVE ENGINEER

OFFICE OF THE EXECUTIVE ENGINEER

JAMUNA COMMANDED AREA DEVELOPMENT DIVISION (IRRIGATION)

HOJAI
PIN- 782435
ASSAM.

4:COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. M S SHARMA

Advocate for the Respondent : SC, IRRIGATION

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

29.04.2024

Heard Mr. G.J. Sharma, learned counsel for the petitioner. Mr. N. Upadhyay, learned Standing Irrigation Department appears for the respondent Nos. 1, 2 & 3, while Ms. R.M. Baruah, learned counsel appears for the respondent No. 4.

2. It is the case of the petitioner that he was awarded two contract works vide [i] work order no. EE/CAD/W-25(A)/644 dated 13.07.2018 and [ii] work order no. EE/CAD/W-25(A)/646 dated 13.07.2018 for work of Modernisation [Improvement] of Jamuna Irrigation Scheme under State Plan for the year 2017-18. According to the petitioner, he completed the said two contract works to the extent of 100% and to the satisfaction of the respondent authorities, who had accordingly issued completion certificate. Though the respondent authorities had released some amount, they are yet to disburse the balance amount of Rs. 6,14,049/- to the petitioner. Hence, the writ petitioner is seeking a direction to be issued to the respondent authorities, to disburse the said amount of Rs. 6,14,049/- to the petitioner

3. The petitioner's counsel submits that the petitioner had made a representation dated 26.04.2023 to the respondent No.3, praying for payment of the balance amount of Rs.6,14,049/-. In reply to the said representation dated 26.04.2023, the respondent No.3 issued letter No. EE/JHLD/CON/29/PT-V/190 dated 04.05.2023, which is to the effect that the respondent No.3 was processing the demand to be made to the higher authority for payment of the balance amount, subject to availability of fund. He submits that in view of the amount claimed by the petitioner being an admitted amount, the writ petition may be disposed of with a direction to the State respondents to pay the admitted amount within a specified time period.

4. The learned counsels for the respondents submit that in view of there being an admission made by the State respondents that the petitioner is liable to be paid the admitted amount of Rs.6,14,049/-, some consideration may be given by this Court with regard to the time limit for payment of the admitted dues. They also submit that a re-verification of the said amount may be made in terms of the judgment of the Full Bench of this Court in the case of ***Tamsher Ali and Etc. Etc Vs. State of Assam and Ors, reported in 2008 (4) GLT 1.***

5. In view of the consent of the parties and keeping in view the letter dated 04.05.2023, the State respondents are directed to re-verify the amount payable to the petitioner in terms of ***Tamsher Ali (supra)*** and pay the admitted amount to the petitioner. The entire exercise should be completed within a period of 4(four) months from the date of receipt of a certified copy of this order.

6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant