

GAHC010180932020



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

**Case No. : WP(C)/5467/2020**

ASHOK KUMAR AGARWALLA  
S/O- LT. SURAJMAL AGARWALLA, R/O- USHAGALI, A.T.ROAD,  
BHARALUMUKH, GHY-9, DIST.- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REP. BY THE SECY. TO THE GOVT. OF ASSAM, WATER RESOURCES DEPTT.,  
DISPUR, GHY-6

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM  
REVENUE AND DISASTER MANAGEMENT (GENERAL) DEPTT.  
DISPUR  
GHY-6

3:THE CHIEF ENGINEER  
WATER RESOURCES DEPTT.  
CHANDMARI  
GHY-3

4:THE SUPERINTENDING ENGINEER  
SOUTHERN ASSAM  
W.R. CIRCLE  
CHANDMARI  
GHY-3  
ASSAM

5:THE SUPERINTENDING ENGINEER  
LAKHIMPUR W.R. CIRCLE  
NORTH LAKHIMPUR

6:THE EXECUTIVE ENGINEER

NORTH LAKHIMPUR W.R.DIVISION  
NORTH LAKHIMPUR  
ASSAM

7:THE DISTRICT COMMISSIONER  
LAKHIMPUR  
DIST- LAKHIMPUR  
ASSAM  
PIN-78700

**Advocate for the Petitioner** : MRS. K DEVI  
**Advocate for the Respondent** : SC, WATER RESOURCE

**BEFORE**  
**HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

**ORDER**

**22-05-2024**

Heard Ms. D. Angana learned counsel for the petitioner. Also heard Mr. M. Chetia, learned Govt. Advocate for the respondent no. 7 and Ms. N. Bordoloi, learned Standing Counsel, Revenue Department (respondent no. 2) and Ms. D. Jain, learned Standing Counsel, Water Resources Department.

By filing this petition under Article 226 of the Constitution of India, the writ petitioner is seeking release of the outstanding contractors bill of the petitioner amounting to Rs.58,61,380/- (Rupees Fifty Eight Lakh Sixty One Thousand Three Hundred Eighty) only against the work orders executed by the petitioner.

The case of the petitioner in brief is that pursuant to work order issued to the petitioner under the Executive Engineer, North Lakhimpur WR Division, North Lakhimpur, Assam, the petitioner completed the works allotted to the full satisfaction and within the time. However, despite of completion of the work, the bills of the petitioner has not been paid. Accordingly, the present writ petition had to be filed.

It appears from the affidavit-in-opposition filed on behalf of the

respondent no. 7 that the bill of the petitioner have been admitted by the concerned Department. It further appears that due to non-receipt of fund from the Revenue and Disaster Management Department, the bills of the petitioner stands outstanding.

Paragraphs 5 & 6 of the affidavit-in-opposition dated 17.05.2024 is reproduced herein below for ready reference:-

*“5. That with regards to the averments made in paragraphs 3, 4 and 5 of the writ petition the deponent states that as reported by the Executive Engineer, North Lakhimpur W.R Division, tender was invited by the Executive Engineer, North Lakhimpur W.R Division, vide No.LNWRD/TNL/731017-18/1691 dated 13/04/2018 against which the work order issued from the end of the Additional Chief Engineer, Upper Assam Zone, vide letter No. ACE/WR/NL/NIT-275/Pt-2/2018/2 Dated 01/07/2018 accordingly, the work was completed by the contractor.*

*6. That with regards to the averments made in paragraphs 7, 8 and 9 of the writ petition the deponent states that on receipt of the completion report and demand for fund from the executing agency vide letter No. NLWRD/A/56/Pt-1/2011-12/336 dated 04/02/2019. Accordingly, the same has already been submitted in the Office of the Principal Secretary to the Govt. Of Assam, Revenue & DM (G) Department, Dispur Guwahati-6 for releasing of fund vide letter No. LDM(R)2/NC/2019/159 Dated. 25/09/2019. However, the fund in respect of Sri Ashok Kumar Agarwalla was not received from Govt. till date. On receipt of the sanctioned amount from the Govt., the same shall be disbursed in favor of the petitioner.”*

Reading of the aforesaid averments indicates that the outstanding dues of the petitioner is admitted, however, due to non-availability of fund, the same has not yet been paid.

It is regrettable that despite the petitioner having performed the subject work to the full satisfaction of the respondent way back in the year of 2019, the admitted bills of the petitioner are still pending. It is the bounden duty of the state authorities to release the admitted dues of the contractors. Non-availability of the fund cannot be a ground for depriving the legitimate dues of the contractors. Such deprivation amounts to violation of Article 21 of the

Constitution of India.

As such, the respondents are directed to release the outstanding dues of the petitioner against the subject bill within a period of 3 (three) months from the date of receipt of the certified copy of the order.

With the above observations and directions, this writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**