

GAHC010196532017



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

Case No. : WP(C)/3023/2017

GAURI KUMAR PACHANI
S/O. LT. DULAL CHANDRA PACHANI, VILL. TORAJAN, P.O. TORAJAN, P.S.
JORHAT, DIST. JORHAT, ASSAM.

VERSUS

THE STATE OF ASSAM and 2 ORS.
REP. BY THE COMM. and SECY., DEPTT. OF PWD, CHANDMARI, GHY.-03.

2:THE CHIEF ENGINEER

PWD (ROADS)
CHANDMARI
GHY.-03
ASSAM.

3:THE EXECUTIVE ENGINEER

PWD
TINSUKIA RURAL ROAD DIVISION
ASSAM
TINSUKIA
ASSAM

Advocate for the Petitioner : MS.D DUTTA

Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

08.05.2024

1. Heard Mr. P.J. Saikia, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Standing Counsel for the PWD.
2. The grievance of the petitioner is with regard to his claim that he has not been paid his contractual dues amounting to Rs.2,73,29,573/- plus liquidated damages of Rs.4,10,000/- and security deposit of Rs.16,91,703/- totaling Rs.2,94,31,276/-, along with the interest @ 12% p.a, w.e.f 16.12.2011.
3. The facts of the case is that the petitioner had earlier filed a writ petition, i.e. WP(C) 6093/2013, praying for the above said amount. WP(C) 6093/2013 was disposed of by this Court, vide judgment dated 13.02.2014 by holding that since there was a Dispute Redressal System, which could be availed of by the writ petitioner and as there were disputed questions of fact involved, it would be appropriate for the petitioner to approach the Disputed Redressal System.
4. Subsequent to the above judgment dated 13.02.2014 passed in WP(C) 6093/2013, the petitioner filed a review petition, vide M.C. No.848/2014, stating that the Dispute Redressal System was empowered to entertain disputes involving 5% of the total contractual value amount only. However, as the claim of the petitioner was more than 5% of the total contractual value, the Dispute Redressal System could not entertain the claim of the petitioner.

5. M.C. No.848/2014 was disposed of by this Court vide order dated 05.12.2014, by holding that the grievance of the petitioner should be considered by the Chief Engineer, PWD by passing an appropriate order, after taking note of all the attending facts and circumstances pursuant to the judgment dated 13.02.2014 passed in WP(C) 6093/2013.

6. Subsequent to the order dated 05.12.2014 passed in M.C. No.848/2014, the Chief Engineer, PWD (Boarder Roads), Assam issued a Speaking Order dated 29.04.2022, *inter alia* holding that the concerned Executive Engineer had measured the work done by the petitioner and payment had been made accordingly. Therefore, no further extra payment was to be made to the petitioner.

7. The petitioner's counsel submits that the Speaking Order dated 29.04.2022 issued by the Chief Engineer, PWD (Roads), Assam has given no specifics as to what amount was paid to the petitioner and as such, the Speaking Order was incomplete.

8. On the other hand, Mr. B. Gogoi, learned counsel submits that the petitioner should make a challenge to the Speaking Order dated 29.04.2022, if he is aggrieved by the same.

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

8. As can be seen from the facts narrated above, the Speaking Order dated 29.04.2022 issued by the Chief Engineer, PWD (Boarder Roads), Assam has been made in pursuance to the judgment dated 13.02.2014 passed in WP(C) No.6093/2013 and the order dated 05.12.2014 passed in M.C. No.848/2014. The Speaking Order dated 29.04.2022 has not been put to challenge by the petitioner till date. Further, the issues involve disputed questions of fact and in view of the Speaking Order, which has not been put to challenge, there is nothing left to adjudicate in this writ petition.

9. The writ petition is accordingly dismissed. However, liberty is given to the petitioner to approach the Civil Court as per law, if he is aggrieved with the Speaking Order dated 29.04.2022.

JUDGE

Comparing Assistant