

GAHC010204662022



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

Case No. : WP(C)/6601/2022

SASHANKA SHEKHAR ROY
S/O LATE DURGA SANKAR ROY, R/O VILL-MAIN ROAD, NEAR D.C.
BUNGLOW, P.O., P.S. AND DIST-KARIMGANJ

VERSUS

THE STATE OF ASSAM AND 8 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSAM,
WATER RESOURCES DEPARTMENT, DISPUR-06, ASSAM

2:SECRETARY TO THE GOVT OF ASSAM
WATER RESOURCES DEPARTMENT
DISPUR
GUWAHATI-6

3:THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6

4:THE CHIEF ENGINEER
WATER RESOURCES DEPARTMENT
CHANDMARI
GUWAHATI-781003

5:THE ADDL CHIEF ENGINEER
CACHAR AND HILLS WATER RESOURCES
SILCHAR
DIST-CACHAR

6:THE SUPERINTENDING ENGINEER
HAILAKANDI W.R. CIRCLE

HAILAKANDI

7:THE EXECUTIVE ENGINEER
AKRIMGANJ W.R. DEPARTMENT
KARIMGANJ

8:THE ASSISTANT EXECUTIVE ENGINEER
W.R. SUB DIV
KARIMGANJ

9:THE EXECUTIVE ENGINEER
CACHAR (INVESTIGATION DIVISION)
BADARPUR
KARIMGANJ

Advocate for the Petitioner : MR. R A CHOUDHURY

Advocate for the Respondent : SC, WATER RESOURCE

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

20-05-2024

Heard Mr. R. A. Choudhury, learned counsel for the petitioner. Also heard Mr. R. M. Das, learned Standing Counsel, Water Resources Department and Mr. A. Chaliha, learned Standing Counsel, Finance Department.

By way of this writ petition, the petitioner is canvassing the non-payment of outstanding contractual bills of Rs.24,24,299/- which is to be paid to the petitioner against the execution of various works allotted by the respondent authorities i.e. Water Resources Department, Govt. of Assam.

The brief facts of the case is that the petitioner being a registered Class-I Contractor under the Water Resources Department was allotted various contractual works for constructions by the respondent authorities vide various work orders. In as, to expedite the execution of the various works allotted to the petitioner, the petitioner took financial assistance from bank with interest @ 13% per annum as well as took

private loan with higher interest and also purchased various contract materials on credit and started executing the allotted works and in fact, completed the said work within the stipulated time to the full satisfaction of the respondent authorities.

It is the further case of the petitioner that after completion of all the allotted works the said works were duly and properly checked, verified, measured and necessary bills for the same were also prepared and passed for payment by the competent authority and for execution of all the allotted works in terms of all the work orders together from the Water Resources Department amounting to Rs.24,24,299/-. However, the said amount is still outstanding and is payable to the petitioner along with the 8% security amount which is withheld by the respondents. Despite of various representations/legal notices, the said amount has not been paid to the petitioner. Aggrieved by the non action of the respondent authorities for releasing the aforesaid legitimate payment to the petitioner, this writ petition has been filed.

Mr. R. M. Das, learned Standing Counsel for the Water Resources Department furnishes a copy of the letter dated 16.05.2024 received from the Office of the Water Resources Department which is reproduced hereunder for ready reference:-

“ With reference to the subject cited above, I have the honour to inform you that 14 (fourteen) Nos of M&R works amounting to Rs.266.98(L) were executed by Karimganj W. R. Division against which the Govt. Of Assam in Water Resources Department had released fund of Rs.266.98 (L) vide no. WR(BT) 191/2012/165 dated 26.03.2013 with an instruction to deposit the amount in the "Revenue Deposit" under Head of Account "8443-00-101-0000-00-00-GA-V-NP" accordingly the amount of FOC remitted to "Revenue Deposit" vide Challan No. 03/897, dated 30.03.2023. Thereafter, as per instruction of the Govt. in Water Resources Department to transfer credit the aforesaid amount to Head of Account "8443-Civil Deposit & Minor Head-911-Deduct Refund" and accordingly the said amount transferred credit to the above Head of Account vide Challan No.008/9246-2711/T/0003, dated 21/08/2015. However, out of this amount, payment has been made to 3 (three) nos. of contractors amounting to Rs.11.47474(L) in compliance of Hon'ble Gauhati High Court Order passed against WP(C) No. 782/2021, Cont. Case No. 283/2018 and WP(C) No. 8605/2018. The concerned division has already submitted the demand for fund amounting to Rs.145.53772 (L) to the Superintending Engineer, Hailakandi WR Circle vide letter No.A-5 Demand M&R(2012-13)/2021-22/05 dated 22/04/2024.

Moreover, as per Govt. Letter OM No. BB. 191/2013/55 dtd. 10.08.2015, that in order to release the said amount, the Department is at liberty to move the Finance Deptt (Budget) to make Supplementary Demand for providing Budget provisions for

the same which should also be passed by Hon'ble Assam Legislative Assembly and then only demand so placed can be processed for making payment."

A perusal of the aforesaid instruction indicates that the bill amount of the petitioner is an admitted amount and the same has been not released for lack of funds.

Be that as it may, it appears that the petitioner has successfully performed his part of the job and the respondents have also accepted the same.

That being so, the respondents cannot withhold the legitimate dues of the petitioner.

In view of the same, this Court for the ends of justice, disposes of this writ petition with a direction to the respondents to release the outstanding amount due to the petitioner in accordance with law from the date of receipt of the certified copy of the order within a period of 3 (three) months.

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

JUDGE

Comparing Assistant