

GAHC010225432023



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

Case No. : WP(C)/5877/2023

KISHORE KUMAR BEZBARUAH
S/O- LATE JOGESWAR KOCH,
R/O- SOUTH HAIBORGAON, R.G.B. ROAD,
P.O. AND P.S.- HAIBORGAON, SADAR,
PIN- 782002, DIST.- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
WATER RESOURCES DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

REVENUE DEPARTMENT
DISPUR
GUWAHATI-6.

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

4:THE SUPERINTENDENT ENGINEER
WATER RESOURCES DEPARTMENT DIVISION

NAGAON- 782001.

5:THE EXECUTIVE ENGINEER
NAGAON
WATER RESOURCES DEPARTMENT DIVISION
NAGAON
PIN- 782001.

6:THE ASSISTANT EXECUTIVE ENGINEER
NAGAON WATER RESOURCES DIVISION
DIVISIONAL OFFICER
PIN- 782001
ASSAM

Advocate for the Petitioner : MRS. K K CHOUDHURY,

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

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

27.08.2024

Heard Mrs. K.K. Choudhury, learned counsel for the petitioner as well as Mr. S. Dutta, learned counsel for the respondent No.2. Ms. J. Gogoi, learned counsel appears for the Water Resources Department.

2. The petitioner's case is that he had been allotted 7 work orders in connection with the scheme "Immediate Measures to Brahmaputra Dyke from Kukurakata Hill to Hatimura Hill (Breach Closing Works at Ch.3112 m to Ch.3211 m and Restoration Works) under SDRF for 2017-18 (Seepage Arresting Measures at Hatimura Dyke) (Sub-Estimate- II)." The petitioner's grievance is that the contractual dues of the petitioner under the Nagaon Water Resources Division for all the 7 work orders amounts to Rs.11,82,338/-, which has not

been paid to the petitioner till date.

3. The petitioner's counsel submits that though some amount for the contract works had been paid to the petitioner, the balance amount of Rs.11,82,338/- has not been till date. She accordingly submits that a direction for payment of the same should be made to the respondents.

4. Mr. S. Dutta, learned counsel for the respondent No.2 has submitted a letter No.ECF No.452235/931 dated 27.08.2024 issued by the Joint Secretary to the Govt. of Assam, Revenue & Disaster Management Department, which is to the effect that the Department has received some of the certified copies of the documents from the DC, Nagaon vide their letter under Reference No.3 and the matter is under process for release of fund following due procedure. Accordingly, the counsel for the respondent No.2, Mr. S. Dutta was requested to pray for 6 weeks time for the said purpose. Mr. S. Dutta submits that the respondents should be allowed to verify the amount payable to the petitioner and thereafter pay the admitted amount to the petitioner.

5. Ms. J. Gogoi, learned counsel for the Water Resources Department submits that she has got no comments to make and that the submission made by Mr. S. Dutta will also be her submission.

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

7. The liability statements made by the Executive Engineer, Nagaon Water Resources Division in respect of the petitioner's 7 work orders, as annexed to the writ petition are as follows:-

“e of Work & A/C:- Flood Damage Repairing & A/C No. 2245

Work Order No. & Date	Bill No. & Date	M.B. No.	M.B.'s Page No.	Bill Amount	Already Paid	Balance	Remarks
SEN/G/158/Pt-/295 Dtd. 07/06/2003	FF/DVL/111 Dtd. 10/07/06	1849	1-6	116220.00	55950.00	60270.00	
CS/FDR/KH/04-05 1/245 Dtd. 20/01/2005	RF/II/DVL/6 Dtd. 20/06/06	1843	39-42	600769.00	280000.00	320769.00	
CS/FDR/KH/04-05/532A Dtd. 25/02/2005	FF/DVL/849 Dtd. 11/09/07	1840	182-185	18313.00	-	18313.00	
CS/FDR/KH/04-05/532B Dtd. 25/02/2005	FF/IIIng(A) Dtd. 02/02/06	S.M.B. No. 114	73-74	18312.00	-	18312.00	
CS/FDR/BKM/2004-05/1/1014 Dtd. 20/07/2005	RA/I/DVL/70 Dtd. 30/06/06	1830	116-118	209160.00	80000.00	129160.00	
SEN/M35/16/A/11 Dtd. 25/07/2003	Duplicate Bill No. FF/01(R) Dtd. 09/02/2023	1606	42-45	114390.00	-	114390.00	

Total = 1077164.00 415950.00 661214.00”

“Head of A/C:- 4711

Sl No.	Work Order No. & Date	Bill No. & Date	M.B. No.	M.B.'s Page No.	Bill Amount	Already Paid	Balance	Remarks
1	SEN/G/78A/2017/120(D) Dtd. 04/07/2019	FF/20/Ng Dtd. 12/11/2020	31672	91-95	521124.00	-	521124.00	

Total Rs. 521124.00 Rs.521124.00”

9. The contents of the letter No.ECF No.452235/931 dated 27.08.2024 issued by the Joint Secretary to the Govt. of Assam, Revenue & Disaster Management Department is reproduced hereinbelow as follows:-

*“From: Shri Shyamal Kshetra Gogol, ACS,
Joint Secretary to the Govt. of Assam, Revenue & D.M. Department.*

To : *Shri Satyajit Dutta, Advocate, Standing Counsel,
Revenue & D.M. Department, Gauhati High Court, Guwahati-1.*

Sub : *WP(C) No. 5877/2023 - Kishore Kumar Bezbaruah Vs. The State of Assam
& Ors-reg.*

Ref : *1. Your Letter No. REV/DS/2023/779, dated 18-08-2024*
2. This Department's letter ECF No. 452235/43, dated 19-08-2024.
3. DC, Nagaon's letter E 106180/DM-28/7/2024-DDM-NGN/49, dated 27-08-2024.

Sir,

In inviting a reference to the letters on the subject cited above, I am directed to say that this Department has received some of the certified copies of documents from DC, Nagaon vide letter under reference No. 3. The matter is under process for release of fund following due procedure.

In view of the above, you are, therefore requested to kindly move Hon'ble Court for another 6 (six) weeks time for submission of instruction in this regard due to engagement at time bound works in connection with ongoing Assam Legislative Assembly Session.”

10. The above letter dated 27.08.2024 is made a part of the record and marked as Annexure-X.

11. In view of the stand of the Government of Assam in the Revenue & Disaster Management Department that the petitioner's claim is under process for release of fund following due procedure, this Court is of the view that the writ petition can be disposed of at this stage.

12. Accordingly, the respondents are directed to verify the amount payable to the petitioner in respect of the claim made by the petitioner and pay the admitted amount to the petitioner, within a period of 2(two) months from the date of receipt of a copy of this order.

13. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant