

GAHC010242212022



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

Case No. : WP(C)/7640/2022

JINARAM PATAR
S/O- LT. JAMESWAR PATAR, R/O- VILL- NELLIE, P.O. MORIGAON, DIST.-
MORIGAON, ASSAM, PIN- 782105

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
MORIGAON, DIST.- MORIGAON, PIN- 782105, ASSAM, REP. BY THE
PRINCIPAL SECRETARY

2:THE PRINCIPAL SECRETARY
TIWA AUTONOMOUS COUNCIL
MORIGAON
DIST.- MORIGAON
PIN- 782105
ASSA

Advocate for the Petitioner : MR. N J KHATANAR

Advocate for the Respondent : SC, TIWA AUTONOMOUS COUNCIL

Linked Case : WP(C)/7646/2022

RAJIB BORDOLOI
S/O- BULAN BORDOLOI
R/O- VILL- KONWARGAON

P.O. MANAHA
DIST.- MORIGAON
ASSAM
PIN- 782105

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
MORIGAON
DIST.- MORIGAON
PIN- 782105
ASSAM
REP. BY THE PRINCIPAL SECRETARY

2:THE PRINCIPAL SECRETARY
TIWA AUTONOMOUS COUNCIL
MORIGAON
DIST.- MORIGAON
PIN- 782105
ASSAM

Advocate for : MR. N J KHATANIAR
Advocate for : SC
TIWA AUTONOMOUS COUNCIL appearing for TIWA AUTONOMOUS COUNCIL
AND ANR

Linked Case : WP(C)/7663/2022

MONIRAM DARPHANG
S/O LATE SUKMAL DARPHANG
R/O VILL- BHOMURAGURI
P.O.-JAGIROAD
DIST- MORIGAON
ASSAM
PIN-782105

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
MORIGAON
DIST- MORIGAON
PIN-782105
ASSAM

REPRESENTED BY THE PRINCIPAL SECRETARY

2:THE PRINCIPAL SECRETARY
TIWA AUTONOMOUS COUNCIL
MORIGAON
DIST- MORIGAON
PIN-782105
ASSAM

Advocate for : MR. N J KHATANIAR
Advocate for : SC
TIWA AUTONOMOUS COUNCIL appearing for TIWA AUTONOMOUS COUNCIL
AND ANR

Linked Case : WP(C)/7631/2022

LIPSING BORDOLOI
S/O. LT. MANSING BORDOLOI
R/O. VILL. KHOLAGAON
P.O. KHOLAGAON
DIST. MORIGAON
PIN-782105.

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
MORIGAON
DIST. MORIGAON
PIN-782105
ASSAM
REP. BY THE PRINCIPAL SECRETARY.

2:THE PRINCIPAL SECRETARY

TIWA AUTONOMOUS COUNCIL
MORIGAON
DIST. MORIGAON
PIN-782105
ASSAM.

Advocate for : MR. N J KHATANIAR
Advocate for : SC
TIWA AUTONOMOUS COUNCIL appearing for TIWA AUTONOMOUS COUNCIL
AND ANR

Linked Case : WP(C)/6483/2022

KISHOR KR PATAR
S/O- LATE JUGEN PATAR

R/O- VILLAGE AND P.O- PATIDIYA

DIST- MORIGAON
ASSAM
PIN-782105

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
DIST- MORIGAON

PIN-782105
ASSAM
REP. BY THE PRINCIPAL SECRETARY

2:THE PRINCIPAL SECRETARYV
TIWA AUTONOMOUS COUNCIL

DIST- MORIGAON

PIN-782105
ASSAM

Advocate for : MR. N J KHATANIAR
Advocate for : SC
TIWA AUTONOMOUS COUNCIL appearing for TIWA AUTONOMOUS COUNCIL
AND ANR

Linked Case : WP(C)/7638/2022

SADHARAM DEWRI
S/O- LT. AMERIKA DEWRI
R/O- VILL- TIKHABORI
P.O. GHAGUA
DIST.- MORIGAON
PIN- 782105

VERSUS

TIWA AUTONOMOUS COUNCIL AND ANR
MORIGAON
DIST.- MORIGAON
PIN- 782105
ASSAM
REP. BY THE PRINCIPAL SECRETARY

2:THE PRINCIPAL SECRETARY
TIWA AUTONOMOUS COUNCIL
MORIGAON
DIST.- MORIGAON
PIN- 782105
ASSAM

Advocate for : MR. N J KHATANIAR
Advocate for : SC
TIWA AUTONOMOUS COUNCIL appearing for TIWA AUTONOMOUS COUNCIL
AND ANR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

29.04.2024

Heard Mr. N.J. Khataniar, learned counsel for the petitioners in all the writ petitions. Also heard Mr. R.R. Gogoi, learned counsel appearing on behalf of Mr. S. Neogi, learned counsel for all the respondents in all the writ petitions.

2. All these writ petitions are being disposed of by this common order, inasmuch as, the facts in all the cases pertain to non-payment of admitted dues for development/contract works carried out by the petitioners. The contract works that have been allotted to the writ petitioners and the dues claimed and the amount paid are as follows-

Sl. No.	WP(C) No.	Name of contract work	Total Amount (in rupees)	Balance Amount (in rupees)
1	WP(C) 7640/2022	Development by earth filling at Ulukuchi Playground	Rs.5,00,000/-	Rs.2,00,000/-
2	WP(C) 6483/2022	Construction of Monikut & Sankari Vikash Kendra at Patidaya Borsimaluguri Borkhel	Rs.5,00,000/-	Rs.2,00,000/-
3	WP(C) 7631/2022	Construction of road from Ramen Dewri house to Jogen Bordoloi house at Nizarapar	Rs.10,00,000/-	Rs.4,00,000/-
4	WP(C) 7638/2022	Construction of Sankari Kristi Chora at Tikhabori	Rs.5,00,000/-	Rs.2,00,000/-
5	WP(C) 7646/2022	Construction of Borghar Chora at Konwargaon	Rs.5,00,000/-	Rs.2,00,000/-
6	WP(C) 7663/2022	Construction of Shiva Than at Bhomuraguri	Rs.5,00,000/-	Rs.2,00,000/-

3. The petitioners' counsel submits that as it is admitted that all the petitioners are liable to receive Rs.2 lakhs each, except for the petitioner in WP(C) No. 7631/2022, who is to receive Rs.4 lakhs, the respondents should be directed to pay the same within a specified time period.

4. Mr. R.R. Gogoi, learned counsel appearing for the respondents submits

that the claims of the present writ petitioners have been verified and inspected by the APO (Technical), Tiwa Autonomous Council, Morigaon, Assam and also by the Executive Engineer, PWD Morigaon District, Territorial Building Division and it has been found that the petitioners have successfully completed the same. He submits that the payments to the petitioners could not be made in full as there were pending litigations. However, once re-verification is done, the admitted amount can be paid to the petitioners.

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

6. Para 9 of the affidavit-in-opposition filed by the respondent No.2 states as follows-

“That with regard to the statements made in paragraphs 10, 11 and 12 of the writ petition, the deponent humbly begs to state that altogether 250 nos. of works/schemes were allotted through the Construction Committees by the TAC for the year 2017-2018. All these 250 nos. of works have been completed by the respective Construction Committees and bills were submitted. In fact, part payments have already been made against all these 250 nos. of works. However, the remaining payment could not be made due to institution of various litigations as regards award of contract through Construction Committee. However, 92 nos. of Construction Committees have preferred writ petitions before this Hon'ble Court for releasing their balance outstanding amount. This Hon'ble Court was pleased to dispose of those writ petitions directing the TAC to verify the claim of those petitioners and if they are found to be entitled, directed to make them the balance payment. Accordingly, as per the direction of this Hon'ble Court, the claims of those 92 Construction Committees were verified and accordingly, payments were made to them. In fact, the claims of some of the construction committees have already been verified and payment have also been released to them in pursuance of the direction passed by this Hon'ble Court in different writ proceedings. In respect of the present petitioner, it is stated that the claim of the petitioner has also been verified and inspected by the A.P.O. (technical), Tiwa Autonomous Council, Morigaon (Assam) and also by Executive Engineer, PWD Morigaon District, Territorial Building Division. It has been found that the petitioner has successfully completed the said work.”

7. The above Para 9 of the affidavit-in-opposition filed by the respondent No.2 clearly shows that the petitioners have successfully completed the contract works allotted to them. The averments made in the writ petitions by the petitioners, to the effect that the respondents have not paid them the balance amount of Rs.2 lakhs each, except for the petitioner in WP(C) No.7631/2022 who is to be paid Rs.4 lakhs, is not denied by the respondents in their affidavit-in-opposition. The Supreme Court in the case of ***Naseem Bano Vs. State of U.P and Others***, reported in ***1993 Suppl. (4) SCC 46***, has held that averments are deemed to be admitted, if not controverted. In view of the law laid down by the Supreme Court, as stated above, the respondents have admitted their liability for payment of the balance amount, as provided in the chart shown in Para 2 of this order. Be that as it may, the State respondents, especially, the respondent Nos. 1 & 2 are directed to re-verify the outstanding amount payable to the petitioners, within a period of 1(one) month from the date of receipt of a certified copy of this order and pay the admitted amount within a further period of 1(one) month.

8. The writ petitions are accordingly disposed of.

JUDGE

Comparing Assistant