

GAHC010042252017



2026:GAU-AS:4817

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

Case No. : WP(C)/6026/2017

MOLOY PAUL
S/O LT. MADAN MOHAN PAUL R/O P.O. and VILL- KATIGORAH PART- III,
DIST. CACHAR, ASSAM, PIN - 788805

VERSUS

THE STATE OF ASSAM and 4 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, PUBLIC HEALTH
ENGINEERING DEPARTMENT, ASSAM SECRETARIAT, DISPUR,
GUWAHATI6, ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

FINANCE DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6
ASSAM.

3:THE CHIEF ENGINEER

PUBLIC HEALTH ENGINEERING DEPARTMENTWATER HENGRABARI
GUWAHATI - 781036
ASSAM

4:THE SUPERINTENDING ENGINEER

PUBLIC HEALTH ENGINEERING DEPARTMENT
CACHAR CIRCLE
SILCHAR
SILCHAR- 788001
DIST. CACHAR

ASSAM

5:THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT SILCHAR DIVISION
NO. 1
SILCAHR- 788001
DIST. CACHAR
ASSAM

Advocate for the Petitioner : MS.P MAZUMDAR, MR.C S HAZARIKA,MR.M K MAJUMDAR,MS.R MAZUMDAR

Advocate for the Respondent : SC, P H E, MR.P N GOSWAMI,SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

01.04.2026

Heard Mr. C.S. Hazarika, learned counsel for the petitioner; Mr. R.R. Gogoi, learned Standing Counsel, Public Health Engineering [PHE] for the respondent nos. 1, 3, 4 & 5; and Ms. R.M. Bora, learned counsel on behalf of Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2.

2. By this writ petition, the petitioner has claimed that he was awarded the following three contract-works by the three work orders, mentioned below :-

Sl.	Name of Work	Work Order Number and Date
1	Development of Traditional Community Pond under P.M.'s Announcement Programme for 2004-05 at various PPL under Katigorah LAC [5 nos.]	Work Order No. PHEE/TB-429[c]/2004-05/6716 dated 02.03.2005.
2	Installation of Direct Action Tara Pump including construction of platform and drain under P.M.'s Announcement	Work Order No. PHEE/TB-429[c]/2005-06/5592 dated 20.09.2005.

	Programme for 2004-05 at Habitation and PPL under Katigorah LAC.	
3	Installation of Direct Action Tara Pump including construction of platform and drain under P.M.'s Announcement Programme for 2004-05 at Habitation and PPL under Katigorah LAC.	Work Order No. PHEE/TB-429[c]/2005-06/5843 dated 23.09.2005.

3. It is the case of the petitioner that he had executed all the three contract-works successfully to the satisfaction of the respondent authorities in the PHE Department. After execution of the Contract-Work no. 1, the petitioner submitted a final bill for an amount of Rs. 74,889/-. Out of the said bill amount, an amount of Rs. 23,000/- was paid to be petitioner on 06.03.2006 and another payment of Rs. 13,000/- was paid on 08.12.2006. But the balance amount against the Contract-Work no. 1 was not paid subsequently.

3.1. For the Contract-Work no. 2, the petitioner submitted final bill for an amount of Rs. 30,004/- but the said bill amount was also not paid to him.

3.2. As against the Contract-Work no. 3, the final bill for an amount of Rs. 30,002/- was not released by the respondent authorities in the PHE Department.

4. Stating that a total sum amounting to Rs. 98,895/- [=Rs. 38,889/- + Rs. 30,004/- + Rs. 30,002/-] against the three contract-works has not been released till the institution of the writ petition in September, 2017, the petitioner has instituted the writ petition seeking a direction to the respondent authorities to release the said total outstanding amount of Rs. 98,895/-.

5. The respondents were put notice as far back as on 29.01.2017. The petitioner has made claim that there was no disbursement of an amount of Rs. 98,895/- against the three contract-works though the petitioner had executed for the PHE. No counter affidavit has been

filed on behalf of the respondent authorities despite grant of time repeatedly.

6. Considering the fact that the instant writ petition is pending since 2017 without any response from the respondent authorities in the PHE Department, such conduct of the respondent authorities in the PHE Department is not appreciated that too, in respect of a claim for a reasonably small amount of Rs. 98,895/-.

7. In the above obtaining fact situation, this Court is constrained to refer to the following observations made by the Hon'ble Supreme Court in City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla and others, [2009]1 SCC 168 :-

34. It will not be appropriate to dispose of the matter without one word about the conduct of the State Government reflecting a highly unsatisfactory state of affairs. We express our grave concern as to the manner in which the State has conducted in this case. It is the constitutional obligation and duty of the State to place true and relevant facts by filing proper affidavits enabling the court to discharge its constitutional duties. The State and other authorities are bound to produce the complete records relating to the case once Rule is issued by the court. It is needless to remind the Governments that they do not enjoy the same amount of discretion as that of a private party even in the matter of conduct of litigation. The Governments do not enjoy any unlimited discretion in this regard. No one needs to remind the State that they represent the collective will of the society.

8. Today, Mr. Gogoi, learned Standing Counsel, PHE Department has submitted that he has received instructions from the respondent no. 3 to the effect that the respondent no. 3 is actively examining the matter of payment of outstanding dues Rs. 98,895/-, as claimed by the petitioner, with verification of the official records. Mr. Gogoi has submitted that since the respondent no. 3 has already been examining the matter, this writ petition be disposed of with a direction to the respondent no. 3 to bring the process of verification and disbursement of the amount found entitled to the petitioner within a period of 3 [three] months, by undertaking that the entire process will be completed within such time period.

9. Mr. Hazarika, learned counsel for the petitioner has agreed to the submission made by Mr. Gogoi.

10. In the absence of any counter affidavit from the respondent authorities till date, it would not be prudent to wait for any further period with an expectation to receive an affidavit from the respondent authorities. Therefore, this Court has no other option but to dispose of the writ petition with a direction to the respondent authorities in the PHE Department to examine the claim of the petitioner for the amount of Rs. 98,895/- on the basis of verifiable office records in the right earnest and after verification, to disburse the said amount or any amount, found entitled, to the petitioner. The respondent authorities shall also examine whether any amount deposited by the petitioner towards Earnest Money Deposit [EMD], Security Deposit, etc., is still retained at the end of the Department and if any such amount is retained till date, the same shall also be released to the petitioner. The entire exercise is to be completed by the respondent no. 3 within a period of three months from today without fail.

11. A copy of this order is to be furnished to Mr. Gogoi, learned Standing Counsel, PHE Department for communication to the Head of the Department, PHE Department, Government of Assam for taking necessary steps from their end in terms of the above directions.

JUDGE

Comparing Assistant