

GAHC010203082021



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

Case No. : WP(C)/6309/2021

MUSLIM ALI
S/O LATE MAKBUL ALI
R/O SUNDARBARI
P.S. JALUKBARI, GUWAHATI-14, DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND AND SPECIAL SECRETARY TO THE
GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT (ROADS) DISPUR, GUWAHATI- 781006

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

PUBLIC WORKS DEPARTMENT (ROADS) DISPUR
GUWAHATI- 781006.

3:THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT (ROAD AND PMGSY WORKS)
ASSAM
CHANDMARI
GUWAHATI-3
DIST. KAMRUP (METRO)
ASSAM

4:SUPERINTENDING ENGINEER

PUBLIC WORKS DEPARTMENT
NALBARI ROAD CIRCLE
NALBARI

DIST.NALBARI
ASSAM

5:THE EXECUTIVE ENGINEER

PWD
NALBARI RURAL ROAD DIVISION
NALBARI
NOW RE-DESIGNATED AS THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS)
NALBARI DISTRICT TERRITORIAL ROAD DIVISION
NALBARI
ASSA

Advocate for the Petitioner : MR. D DAS SR. ADV, MR P SARMA

Advocate for the Respondent : SC, PWD,

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : --13.10.2025

Heard Mr. D. Das, the learned Senior Advocate, appearing for the petitioner.
Also heard Mr. B. Gogoi, Additional AG and the learned Standing Counsel, P.W.D.

2. The pleadings have been completed in this matter by the respondents filing their affidavit-in-opposition and the petitioners having filed their affidavit-in-reply. It has however been pointed out that there is no response by the respondent authorities to the additional affidavit filed by the petitioner on 16.12.2023. This affidavit was filed prior to the affidavit-in-opposition filed by the respondents

3. Mr. B. Gogoi, learned Additional AG, has submitted that the non-response to the said additional affidavit is oversight and he may be allowed an opportunity to have this instructions on the same and to file an affidavit if required.

4. Mr. D. Das, learned Senior Advocate, appearing for the petitioner has drawn the attention of this Court to the documents annexed to the additional affidavit to impress that a payment of Rs. 11027406.00/- had been admittedly made to the petitioner for construction of a vented causeway.

5. Mr. Das, learned Senior Advocate, therefore submits that it is an admitted position that the respondents were in the knowledge that the vented causeway was also a part of the awarded contract and therefore there can be no reason for the respondents to now deny payment to the petitioner for having completed part of the work.

6. Mr. Gogoi, learned Additional AG has drawn the attention of this Court to the affidavit-in-opposition filed by the Chief Engineer, P.W.D, where at para-4 and 5 of the affidavit, the Chief Engineer, PWD has taken a specific stand that the decision to set up a vented causeway covering length of 550 meters instead of RCC Bridge, was not final and that the concerned authority had, in fact, rejected the proposal and the estimate submitted by the then Executive

Engineer, PWD, Nalbari Rural Road Division.

7. Mr. Gogoi, learned Additional AG has further submitted that there is no office records to show issue of instructions to the petitioner to execute the work of the contract as per new plan and estimate including vented causeway.

8. It is noticed that in several orders, this court had recorded the submissions of the counsel for the P.W.D that, they had sought leave to produce the records which would reflect the rejection of the proposals sent by the Executive Engineer, P.W.D, Nalbari Division in respect of the vented causeway. Till date, such records have not been produced and Mr. Gogoi, learned Additional AG has today submitted that, although such records of rejecting the proposal may not be available, there are also no records to show that the petitioner was given any instructions to carry out the work of the vented causeway or that there were any approval of the estimate. This Court has noticed that by the letter dated 21.09.2010, the Additional Director, Designs, in the office of the Chief Engineer, P.W.D, Roads had informed the Executive Engineer, P.W.D, Nalbari Rural Road Division that the design and drawing of the general arrangements, cross-sectional details of the causeway along with the basic design data were scrutinized and approved after necessary modification or correction in red ink wherever necessary. By the said letter, the Additional Director, Design had also

enclosed the approved GAD and cross-sectional details of proposed causeway over river Matanga on road Kumarikata to Kauli-2 (T-5) under the package along with approved estimate for the same in original.

9. Confronted thus, Mr. Gogoi, learned Additional AG has sought for a short time to have his instructions on the additional affidavit filed by the petitioner as also the variance in letter dated 21.09.2010 and the stand taken in the affidavit-in-opposition.

10. At the request of Mr. B. Gogoi, learned Additional AG, list this matter again on 30.10.2025 for further consideration.

JUDGE

Comparing Assistant