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

**Case No. : WP(C)/6881/2025**

GAUTAM NANDI
S/O NALINI MOHAN NANDI, RESIDENT OF DHEKIAJULI, WARD NO.6, SONITPUR, ASSAM- 784110

VERSUS

STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY DEPARTMENT OF PUBLIC HEALTH ENGINEERING, DISPUR, ASSAM. PIN 781006

2:CHIEF ENGINEER (PHE)
DEPARTMENT OF PUBLIC HEALTH ENGINEERING
HENGRABARI
GUWAHATI
ASSAM-781039

3:THE ADDL. CHIEF ENGINEER (PHE)
NORTH ASSAM ZONE
TEZPUR-784110

4:EXECUTIVE ENGINEER (PHE)
TEZPUR DIVISION NO. II
DHEKIAJULI
ASSAM-784110

**Advocate for the Petitioner** : MR. A GANGULY, MR. A DHANUKA

**Advocate for the Respondent** : SC, P H E,

**BEFORE**

**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**25.09.2026**

Heard Shri A. Ganguly, learned counsel for the petitioner. Also heard Shri RR Gogoi, learned Standing Counsel, PHE.

2. The instant petition has been filed for a direction for release of contractual dues amounting to Rs.11,56,906/- for various works claim to have been done and bills were raised on 07.11.2020 and 05.10.2022.The said works was for restoration of defunct PWSS during 2019-20 under Tezpur (PHE) Division – II, Dhekiajuli at Borbil Kachari PWSS and Singri PWSS.

3. The learned counsel for the petitioner has submitted that the works were done under difficult situation when Covid was having its impact and have been completed all respects. However, the amount of the bills has not been released. He has also drawn the attention of this Court to a statement wherein the amount has been mentioned.

4. Shri Gogoi, learned Standing Counsel, PHE has however raised objection on the maintainability of the writ petition by submitting that the petitioner has not conformed to the requirements aslaid down by the Full Bench of this Court in the case of ***Tamsher Ali & Ors. -Vs-State of Assam and Others***, reported in ***2008 (4) GLT 1.***

5. The scope of adjudication by this Court in exercise of its writ jurisdiction in a matter pertaining to claim for contractual dues is limited as those involve disputed questions of facts. However, the Hon'ble Full Bench in the aforesaid case of ***Tamsher Ali*** (supra)has endorsed that to entertain a writ petition for adjudicating a claim for contractual dues, certain essential requirements are to be fulfilled which, amongst others, would require an acknowledgment in writing

by the Chief Engineer/ Head of the Department. For ready reference, the relevant observations are extracted hereunder:

> "*i) All claims for payment of outstanding dues would be entertained for consideration provided the same are admitted by the respective departments. The admissions of liability shall have to be certified by the respective Chief Engineer in respect of Works Departments and in respect of other departments by the Head of the departments.*
>
> *ii) All claims for payment of admitted outstanding dues would be entertained for payment provided the claims are lodged before the competent authority within a period of three years from the date of the payment becoming due.*
>
> *iii) All claims for payment of admitted outstanding dues in respect of which the contractors intend or have approached the Hon'ble Court, in such cases, the contractors must approach the Hon'ble High Court within a period of 3 years from the date of the payment becoming due. This view has been taken as the Hon'ble Apex Court in the State of Madhya Pradesh Vs. Bhailal Bhai and Ors. reported in AIR 1964 SC 1006 at Para 21 has observed that though provisions of Limitation Act do not as such apply to proceedings under Article 226, the period of Limitation prescribed by Limitation Act for instituting a civil action may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured.*"

6. In the instant case, there is no acknowledgment of liability by the designated authority i.e. Chief Engineer as provided by the Hon'ble Full Bench in the aforesaid case of ***Tamsher Ali*** (supra). In absence of such

acknowledgment, the writ petition would not be maintainable.

7. The writ petition is accordingly dismissed.

8. Dismissal of the writ petition shall not be a bar for the petitioner to approach the competent Civil Court for redressal of the grievance, if permitted by law. If the petitioner approaches the Civil Court, he would be at liberty to take recourse to the provisions of Section 14 of the Limitation Act to explain the delay in approaching the Court.

**JUDGE**

**Comparing Assistant**