
(2025) 11 GAU CK 1784
In the Gauhati High Court
Case No : WP(C) Of 6184 Of 2025

Badrul Hoque

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 03-11-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 11 GAU CK 1784

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : K. Uddin, R. Dhar, B. Gogoi

Final Decision : Dismissed

Judgement

Devashis Baruah, J

1. Heard Mr. K. Uddin, the learned counsel appearing on behalf of the petitioner. Also heard Mr. R. Dhar, the learned counsel appearing on behalf of the Tribal Affairs Department, Government of Assam and Mr. B. Gogoi, the learned counsel who appears on behalf of the PWD as well as the Finance Department.

2. The present writ petition has been filed by the petitioner seeking a mandamus directing the respondents to make payment of an amount of Rs.2,14,398/-.

3. It is pertinent to take note from the materials on record that the petitioner was issued a work order on 05.02.2014 by the Superintending Engineer, PWD, Silchar Building Circle, Silchar.

4. It is the case of the petitioner that the petitioner upon completion of the work submitted bills to the tune of Rs.8,94,791/- in the year 2015 and out of the said amount, certain payments were made. The last payment was made on 18.11.2016. It is the case of the petitioner that an amount of Rs.2,14,398/- is pending since 2016, and as such, the petitioner has approached this Court by filing the present writ petition.

5. This Court has heard the learned counsel appearing on behalf of the petitioner as well as the learned counsels appearing on behalf of the respondents.

6. Mr. R. Dhar, the learned counsel appearing on behalf of the respondents submitted that in respect of certain alleged dues, filing of a writ petition after almost a decade takes away a valuable right of the respondents to have a defence in as much as the relevant records would not be available for making necessary verification. He, therefore, submitted that this is a case wherein this Court ought not to entertain the writ petition in view of the judgment of the Supreme Court in the case of Chennai Metropolitan Water Supply and Sewerage Board and Others vs. T.T. Murali Babu, reported in (2014) 4 SCC 108, wherein the Supreme Court clearly observed that a litigant cannot be permitted to behave like "Kumbhakarna". Paragraph Nos. 16 and 17 of the said judgment are reproduced herein below:-

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons

— who compete with "Kumbhakarna" or for that matter "Rip Van Winkle". In our considered opinion, such delay does not deserve any indulgence and on the said

ground alone the writ court should have thrown the petition overboard at the very threshold.”

7. From a perusal of the above quoted paragraphs, it is seen that the Supreme Court in the said judgment had categorically observed that the equitable jurisdiction of this Court under Article 226 of the Constitution ought not to be exercised when the petitioner has been negligent in approaching the Court on the ground of delay and laches.

8. This Court upon hearing the learned counsels finds it pertinent to observe that there is no explanation as to why the petitioner has approached this Court after 9 years.

9. Taking into account the judgment of the Supreme Court in the case of Chennai Metropolitan Water Supply and Sewerage Board and Others (*supra*), it is the opinion of this Court that the petitioner had acted as Kumbhakarna and Rip Van Winkle, and as such, it is the opinion of this Court that this is not a fit case for exercising the jurisdiction under Article 226 of the Constitution for which this Court is not inclined to entertain the instant petition.

10. Accordingly the writ petition stands dismissed.

11. Before parting with the record this Court, however, observes that the dismissal of the instant writ petition shall not preclude the petitioner to approach the appropriate Civil Court, if so otherwise permissible under the law.