

GAHC010096112021



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

Case No. : WP(C)/3184/2021

DAVID KR. GOGOI
S/O. LT. DURNESWAR GOGOI, R/O. BANTOW, WARD NO.14, P.O. AND P.S.
NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPTT., DISPUR, GUWAHATI-781006.

2:THE UNDER SECRETARY
TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT.
DISPUR
GUWAHATI-06.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS

REHABARI
GUWAHATI-08.

4:THE CHIEF CONSERVATOR OF FOREST
REHABARI
GUWAHATI-08.

5:THE DIRECTOR OF GEOLOGY AND MINING

GOVT. OF ASSAM
KAHILIPARA
GUWAHATI-19.

6:THE DIVISIONAL FOREST OFFICER

LAKHIMPUR DIVISION
NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM
PIN-787001.

7:THE MEMBER SECRETARY

STATE ENVORONMENT IMPORT ASSESSMENT AUTHORITY
ASSAM
BAMUNIMAIDAN
GUWAHATI-21
DIST. KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. A KHANIKAR

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 30-06-2021

Heard Mr. A. Khanikar, learned counsel for the petitioner also heard Mr. K.P. Pathak, learned Standing counsel for the Forest Department representing the respondent nos.1, 2, 3, 4 and 6 and Mr. D.K. Sharma, learned Additional Senior Government advocate appearing for the respondent nos.5 and 7.

2. By filing this writ petition under Article 226 of the Constitution of India, the case projected by the petitioner is that he is a Mining Contract holder in respect of Joyhing Sand and Gravel Mining contract area of Lakhimpur district for a period of 2014-21 ending on held 16.05.2021. The grievance of the petitioner is that despite receiving *kist* money, on and from 30.09.2019 without any valid reasons, the Forest authorities had not issued operational order. Moreover, due to onset of Covid-19 pandemic since 24.03.2020 the petitioner could not successfully extract the Sand and Gravel from the mining area resulting in huge losses. It is further submitted that without considering the losses suffered by the petitioner, the Forest officials are issuing letters and reminders for depositing the pending of *kist* money despite not

being able to operate the said mining area from 30.09.2019 till date.

3. It is submitted that on 28.12.2020, the petitioner has submitted a representation before the Divisional Forest Officer (respondent no.6) seeking extension of the mining contract for atleast 1½ years and to fix time for depositing the remaining *kist* amount so as to enable him to recover his losses. A copy of the said representation was sent to the respondent no.3. It is submitted that the authorities have not taken any decision on the said representation. It is also submitted that as per the advertisement appearing in the Assam Tribune on 05.06.2021, a short sale notice has been issued in respect of the said Sand and Gravel Mining Contract area for the year 2021-27. Accordingly, interference with the said tender process is sought for along with other reliefs.

4. The learned Standing counsel for the Forest Department has opposed this prayer for any interim interference with the tender process on the ground that the contract period of the petitioner has already expired on 16.05.2021.

5. On considering the materials available in the writ petition the Court is of the considered opinion that as the petitioner pleads that losses was suffered due to non-issuance of operational order on and from 30.09.2019 and Covid-19 pandemic situation with effect from 24.03.2020 , it would be appropriate to grant liberty to the petitioner to submit a fresh representation along with such document on which he intends to rely before the principal Chief Conservator of Forest (respondent no.3) and the said authority is directed to dispose of the representation of the petitioner seeking remission of payment of *kist* money paid and/ or which becomes due, compensation and extension of period of leave within a period of 4(four) weeks from the date of receipt of the said representation along with a downloaded copy of this order. The copy of the order may be verified by the respondent no.3 from the website of this Court.

6. The filing of this writ petition shall not be a bar for the petitioner to participate in

the tender process of said Joyhing Sand and Mining Gravel Contract area in terms of the short notice appearing in the newspaper on 05.06.2021. Except for granting liberty to the petitioner to submit representation, the Court is not inclined to grant any other relief to the petitioner. Accordingly, this writ petition stands disposed of at the motion stage without issuance of notice on the respondents.

7. It is further provided that in the event the petitioner is advised to seek compensation it would be open to him to take recourse to appropriate law for doing so.

JUDGE

Comparing Assistant