

GAHC010106772021



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

**Case No. : WP(C)/3464/2021**

RAJIB DAS  
S/O RANJIT KUMAR DAS  
RESIDENT OF UKILPATTY WARD NO. 01, PO,PS AND DIST KARIMGANJ,  
ASSAM,788710

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM. ENVIRONMENT AND FOREST DEPARTMENT, DISPUR,  
GUWAHATI 06

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF  
FOREST  
REHABARI  
GUWAHATI 781008

3:THE CHIEF CONSERVATOR OF FORESTS  
SOUTHERN ASSAM CIRCLE  
SILCHAR  
DIST CACHAR  
ASSAM 788001

4:DIVISIONAL FOREST OFFICER

KARIMGANJ FOREST (T) DHARAKUNA  
DIST KARIMGANJ  
ASSAM  
78871

**Advocate for the Petitioner : MR. H A LASKAR**

**Advocate for the Respondent : SC, FOREST**

**BEFORE**  
**THE HON'BLE MR JUSTICE PRASANTA KUMAR DEKA**  
**O R D E R**

**30.07.2021**

Heard Mr. S. B. Laskar, the learned counsel for the petitioner. Also heard Mr. D. Gogoi, the learned standing counsel for the Forest Department.

The petitioner is the settlement holder of Gumrah Stone Minor Mineral Unit No. 1 under Divisional Forest Officer, Karimganj Forest Division. The mining unit was settled on 31.05.2014 for a period of 7 years to extract 35,000 Cu. M. of sandstone. The initial EIA clearance was given on 22.05.2014 for extracting 25,000 M<sup>3</sup> of sandstone in 5 years. The said quantity was extracted in 20 installments of 1250 M<sup>3</sup> of stone on quarterly basis. Since May, 2019, the mining operation was stopped for want of further EIA clearance. Though the petitioner applied for the same on 26.04.2019 but it was only on 05.02.2021, the EIA was issued for extracting 7500 M<sup>3</sup> stone in three months. But the respondent No. 4, the Divisional Forest Officer, Karimganj instead of allowing the petitioner to resume mining operation, issued several letters and amongst them the impugned demand notice dated 29.04.2019 by way of which the respondent No. 5 threatened termination of the contract for non-deposition of 21<sup>st</sup> to 28<sup>th</sup> kists money in respect of Gumrah Stone Minor Mineral Unit No. 1. The petitioner submitted his representation on 06.05.2021 to the Divisional Forest Officer, Karimganj Division to reconsider the matter to exempt the minor mineral unit from paying the kists money as demanded as no mining operation was allowed due to delay in issuance of EIA clearance since May, 2019 to February, 2021. Accordingly, Mr. Laskar, the learned counsel for the petitioner submits that a duty was cast upon the respondent to extend the lease period due to the reasons hereinabove stated as per Sub Clause 3 of the Clause 8A of Mines and Minerals (Development and Regulation) Amendment Act, 2015. As such the petitioner is entitled for remission of kist amount and for extension of settlement period in accordance with the Sub Clause 3 of the Clause 8A of Mines and Minerals (Development and Regulation)

Amendment Act, 2015.

Mr. Gogoi on the other hand vehemently objected to the prayer made by the petitioner and relied an order passed in WP(C)/3270/2021 dated 27.07.2021 and submits that in a similar matter, this court was satisfied to reject the prayer for extension of lease period.

I have given due consideration to the submissions of the learned counsel for the petitioners. The operative portion of the said decision dated 27.07.2021 passed in WP(C)/3270/2021 is extracted herein below:-

*“On perusal of the contract annexed to this writ petition entered into by the petitioner and the Divisional Forest Officer, Hailakandi nowhere any clause/ clauses are stipulated thereby providing for extension of the extract period. Rather under part 4 of the contract it is the manner for suspension or termination of the contract and the determination, penalty etc. which are stipulated. Under such circumstances, the prayer for extension of the contract period must flow from the statutory provision. In the present case in hand, the Rules, 2013 has its statutory force inasmuch as the said Rules are framed on the basis of the power conferred by sub-section (1) of Section 15 and Section 23 C of Mines and Minerals (Development and Regulation) Act, 1957 and on perusal of the various Rules under Chapter 4 there is no provision for extension of the contract period rather there is a provision for the renewal of the mining contract and for that purpose the petitioner/ contractor is required to seek for renewal prior to 18 months from the date of expiry of the contract. Whether the term “renewal” and “extension” of a lease have the same meaning. Normally “renewal” amounts to renewal of the lease after the term of its subsistence is over and the lessor has the right to introduce new terms of lease and the lessee must be agreeable to it. On the other hand “extension” of lease amounts to extension of the period of subsistence but with same terms and conditions. So extension of the lease period must be carried out during the subsistence of the lease and renewal must be carried out after the lease period comes to an end by efflux of time. Rule 19(1) of the Rules 2013 stipulates renewal only but not extension. As per Black’s Law Dictionary 9<sup>th</sup> Edition the term ‘renewal’ means re-creation of a legal relationship or the replacement of an old contract with a new contract as opposed to mere extension of previous contract. So in my considered opinion there is no provision of extension of the contract period under Rules 2013. For renewal, Rule 19(1) stipulates a condition that the same must be sought for prior to 18 months from the date of completion of the contract period. Accordingly, the Rules 2013*

*are silent in respect of extension of period of contract and on the other hand question of applicability of Rule 19(1) does not arise as there was no such application for renewal. The submission of Mr. Choudhury in respect of applicability of Section 8A of the Act, 1957 cannot be considered as Section 14 of the said Act, 1957 specifically stipulates about the non applicability of the Sections 5 to 13 (inclusive) of the Act, 1957 in case of minor minerals. Thus neither the contract nor the statute authorizes the court to extend the contract period.*

*In view of the aforesaid ratio in **Dharmendra Kumar Singh (Supra)** and there being no specific provision for extension of the contract period, I am of the considered view that the prayer made by the writ petitioner in this writ petition cannot be entertained and as a result this writ petition stands dismissed”.*

In view of the same, this writ petition stands dismissed however, the petitioner is granted the liberty to participate in any tender process in respect of the said mining contract area and also to file appropriate application for remission of the kists money and other reliefs as entitled under provision of Assam Minor Mineral Concession Rules, 2013. Further it is ordered that no coercive measures shall be initiated by the respondent authority till the representation for remission of the petitioner is disposed of.

With the said observation, this writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**