

GAHC010026712024



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

Case No. : WP(C)/736/2024

PULIN MAHANTA
S/O- PRADIP MAHANTA,
R/O- SOLICITOR ROAD,
DIST- JORHAT, ASSAM, PIN-785001

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR, GUWAHATI-6

2:THE PRINCIPAL CHIEF CONSERVATOR FORESTS
AND HEAD OF FOREST FORCE
ASSAM ARANYA BHAVAN
PANJABARI
GUWAHATI-781037

3:THE CONSERVATOR OF FOREST
EASTERN ASSAM CIRCLE
JORHAT PIN-785001

4:THE DIVISIONAL FOREST OFFICER
JORHAT DIVISION
JORHAT PIN-785001

5:THE EXECUTIVE ENGINEER
JORHAT W.R DIVISION
JORHAT PIN-785001

6:THE ASSISTANT EXECUTIVE ENGINEER
JORHAT W.R SUB-DIVISION
RAJABARI
JORHAT PIN-78501

Advocate for the Petitioner : MR S H SIKDAR

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 17.02.2024

Heard Mr. S. Haque, learned counsel for the petitioner, who submits that the petitioner, who had participated in the tender process for 'JD-Jhanji Tamulichiga (Bonai) Mining Contract Area for Sand" was awarded the said contract work. The petitioner thereafter deposited the two installments against the EMD amount/security amount/1st and 2nd installment amount. However, when the petitioner visited the site for extraction of minor minerals (sand), the petitioner found that no sand was available for extraction. The petitioner thereafter submitted an application before the Divisional Forest Officer, Jorhat Davison on 09.12.2021, praying that he be allowed to surrender the aforesaid contract work. The petitioner's counsel submits that though the petitioner's application for surrendering the contract work has been allowed by the respondents, the respondents have not refunded the EMD amount/security amount/1st and 2nd installment amount deposited by the petitioner, in terms of the work order dated 06.08.2021.

Mr. D. Gogoi, learned counsel appears for the Forest Department.

The prayer Nos. 1 and 2 in the writ petition states as follows:-

"I. A writ in the nature of Mandamus directing the respondent authorities to forthwith refund the EMD amount/security amount/1st and 2nd installment amount i.e. E.M.D- Rs. 4,20,000/-, Security - Rs. 6,87,176/- 1st Kist Rs. 6,87,176/-, 2nd Kist Rs. 6,87,176/- (Total - Rs. 24,81,528) deposited by the

petitioner in terms of the work order dated 06.08.2021.

II. A writ in the nature of Mandamus directing the respondent authorities to dispose of the representation dated 24.01.2022 submitted before the Divisional Forest Officer, Jorhat Division for surrendering the tender work pertaining to Jhanji Tamulichiga Bonai MCA granted to the petitioner and to refund of EMD amount/security amount/1st and 2nd installment amount deposited by the petitioner.

With respect to the prayer No. 2, it is seen that the representation dated 24.01.2022 prays for disposal of the petitioners' representation dated 10.01.2022 by the respondent authorities. The petitioner's representation dated 10.01.2022 is a request to the respondent authorities to accept his withdrawal from the contract/tender work allotted to the petitioner and to refund the EMD amount/security amount/1st and 2nd installment amount.

While the respondents have conveyed the approval of the Government to the proposal made by the petitioner for surrender of his contract/tender work, the prayer for refund of his EMD amount/security amount/1st and 2nd installment amount has not been done by the respondents till date.

Issue notice, returnable in four weeks.

Mr. D. Gogoi, learned counsel accepts notice on behalf of all the respondents.

List this matter after **4 (four) weeks**, to enable Mr. Gogoi to obtain instructions and to file affidavit, if necessary.

JUDGE

Comparing Assistant