

GAHC010161602025



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

Case No. : WP(C)/4898/2025

M/S CONSULTING ENGINEER NG
A PARTNERSHIP FIRM, REPRESENTED BY NIRMALI GOGOI, AGED ABOUT
35 YEARS, D/O PRABHAT GOGOI, REGISTERED OFFICE AT H/NO. 46,
SIMANTA PATH, BASISTHA CHARIALI, GUWAHATI-781029, DIST- KAMRUP
(M), ASSMA, PRINCIPAL OFFICE AT CHRISTIAN MISSION SCHOOL,
MISSION PATTY, WARD NO. 3 OF GOLAGHAT TOWN, MOUZA-
MOUKHOWA, P.O., P.S. AND DIST- GOLAGHAT, ASSAM, PIN-785621

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY, POWER ELECTRICITY
DEPARTMENT, J BLOCK, LOK SEWA BHAWAN, ASSAM SECRETARIAT,
DISPUR, GUWAHATI-781006

2:ASSAM POWER GENERATION CORPORATION LIMITED (APGCL)
REPRESENTED BY ITS CHAIRMAN HAVING ITS REGISTERED OFFICE AT
BIJULI BHAWAN
3RD FLOOR
PALTAN BAZAR
GUWAHATI-781001
DIST- KAMRUP (M)
ASSAM

3:THE MANAGING DIRECTOR OF THE ASSAM POWER GENERATION
CORPORATION LIMITED (APGCL)
HAVING ITS REGISTERED OFFICE AT BIJULI BHAWAN
3RD FLOOR
PALTAN BAZAR
GUWAHATI-781001
DIST- KAMRUP (M)
ASSAM

4:SAURAV SAIKIA
CHIEF GENERAL MANAGER (H AND C)
I/C APGCL
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-781001
ASSAM

5:LAKWA THERMAL POWER STATION
REPRESENTED BY ITS GENERAL MANAGER
MAIBELLA
P.O.- SUFFRY
DIST- CHARAIDEO
ASSAM
PIN-78568

Advocate for the Petitioner : MR. S D ROY, R BARMAN,H DIRCHI

Advocate for the Respondent : SC, APGCL, GA, ASSAM,MS K DEKA

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 27.08.2025

Heard Mr. S.D. Roy, learned counsel for the petitioner.

By filing this writ petition, the petitioner has prayed for release of an amount of Rs.7,10,15.85/- which was wrongfully deducted as liquidated damages along with interest @ 12% per-annum from the date of deduction till realization.

It is the contention of the petitioner that the respondent authorities have arbitrarily imposed liquidated damage at the maximum ceiling rate of 10% of the contract value, without any proof or assessment of actual loss in violation of Section 74 of the Indian Contract Act, 1872, and the same has been done without affording an opportunity of hearing to the petitioner.

Issue notice, returnable in 4 (four) weeks.

Since Mr. R. Talukdar, learned Govt. Advocate, Assam has entered appearance on behalf of respondent No.1 and Mr. D. Nath, learned Standing Counsel, APGCL has entered appearance on behalf of respondents No. 2, 3 and 5 , no formal notice is required to be issued to the said respondents.

However, requisite extra copies be furnished to the learned counsel for the respondents during the course of the day.

Learned counsel for the petitioner shall take steps for service of notice upon the respondent No.4 by registered post with A/D within 7 (seven) days from today.

Mr. D. Nath, learned Standing Counsel submits that the writ petition is not be maintainable in view of the existence of arbitration clause in the contract agreement.

Having considered the submission, the issue of maintainability as raised by Mr. D. Nath, learned Standing Counsel shall be considered on the next returnable date.

JUDGE

Comparing Assistant