

GAHC010184272025



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

Case No. : WP(C)/4744/2025

MS LAKWA CONSTRUCTION AND CO
A REGD. PARTNERSHIP FIRM HAVING ITS OFFICE AT 9, P.D CHALIHA
ROAD, NEW AMOLLAPATTY KAMALALAY GIRLS SCHOOL SIVASAGAR,
ASSAM, PIN-785640 AND IS REP. BY ARINDAM BARUAH, 47 YRS, A
MANAGING PARTNER, S/O- INDRESWAR BRUAH, R/O-9, P.D CHALIHA
ROAD, NEW AMOLLAPATTY KAMALALAY GIRLS SCHOOL SIVASAGAR,
ASSAM, PIN-785640

VERSUS

THE ASSET MANAGER AND ORS
OIL AND NATURAL GAS CORPORATION LTD. JORHAT ASSET, DHANSIRI
BHAWAN, CINNAMARA, JORHAT, PIN-785704, ASSAM

2:THE CHIEF GENERAL MANAGER (SCM)
SUPPLY CHAIN MANAGEMENT DEPARTMENT
OIL AND NATURAL GAS CORPORATION LTD. JASSAM
AND ASSAM ARAKAN BASIN

CINNAMARA
JORHAT
PIN-785704
ASSAM

3:THE SUPERINTENDENT ENGINEER (ELECTRONICS)
SUPPLY CHAIN MANAGEMENT DEPARTMENT

JORHAT ASSET

OIL AND NATURAL GAS CORPORATION LTD. ASSAM
AND ASSAM ARAKAN BASIN

CINNAMARA
JORHAT
PIN-785704
ASSAM

4:THE CHIEF ENGINEER (M)

OIL AND NATURAL GAS CORPORATION LTD. JORHAT ASSET
DHANSIRI BHAWAN
CINNAMARA
JORHAT
PIN-785704
ASSAM

5:THE CHIEF MANAGER (F AND N)

OIL AND NATURAL GAS CORPORATION LTD. JORHAT ASSET
DHANSIRI BHAWAN
CINNAMARA
JORHAT
PIN-785704
ASSAM

6:THE BRANCH MANAGER

INDIAN BANK
SIBSAGAR BRANCH
DOLMUKH CHARIALI
SIBSAGAR
PIN-785640
ASSA

Advocate for the petitioner(s): Mr. HP Guwala

Advocate for the respondent(s): Mr. MK Das

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

20.08.2025

Heard Mr. HP Guwala, the learned counsel appearing on behalf of the petitioner.

2. Issue notice making it returnable on 10.09.2025.
3. Mr.MK Das, the learned counsel appears and accepts notice on behalf of the respondent Nos.1 to 5.
4. Extra copies of the writ petition be served upon Mr. Das, the learned counsel during the course of the day.
5. As regards the respondent No.6, the petitioner is directed to take steps for service of notice by way of *Dasti* routed through the Registry of this Court and file an affidavit of service on or before the next date fixed.
6. The case of the petitioner herein is that the petitioner was awarded a contract for Cleaning, Health Assessment, Repair of Tanks (Crude Oil Tanks) for Surface ONGC vide Contract No. GEMC 511687748860664 dated 11.10.2021 for a period of 40 months. Vide an order dated 05.08.2025, the said contract was terminated by following the mandate of Clause 18.1 of the GCC. It is the grievance of the petitioner that pursuant to the termination carried out, the respondent ONGC had exercised powers in terms with Clause 18.6 thereby invoking the performance guarantee which could not have been done so in view of the exception contained in the Second Part of Clause 18.6 of the General Conditions of Contract.
7. This Court had also perused Clause 18.1 of the General Conditions of Contract which stipulates that the agreement shall be deemed to have been automatically terminated on the expiry of the contract period unless the ONGC has exercised its option to extend the contract in accordance with the

provisions, if any, of the contract. Therefore, a termination in terms with Clause 18.1 means that by efflux of time, the contract had come to an end. On the other hand, this Court further takes note of the second part of the Clause 18.6 of the General Conditions of Contract which stipulates that action can be taken by the ONGC of invocation of the various penal consequences only when the contract in question is terminated in terms with Clause 18.3 to 18.5 and any termination done in terms with Clause 18.1 and 18.2 are an exception for invoking penal consequences. Be that as it may, it is seen that by the communication dated 13.08.2025, the respondent No.5 had invoked the Bank Guarantee which in the *prima facie* opinion of this Court could not have been done so in view of the mandate of Clause 18.1 and the Second Part of Clause 18.6 of the General Conditions of the Contract. It is, however, brought to the notice of this Court by the learned counsel appearing on behalf of respondent Nos.1 to 5 that pursuant to the invocation done on 13.08.2025, an amount of Rs.1,88,114/- had been released to the respondent ONGC.

8. Considering the above, this Court, for the present is not in a position to pass interim order as has been sought for in the instant writ petition, *inasmuch as*, the Bank Guarantee had already been invoked.

9. Be that as it may, this Court is of the opinion that the matter requires an urgent disposal and as such on the returnable date an attempt shall be made to dispose of the writ petition.

10. The respondent ONGC as well as the respondent No.6 would be at liberty to file their response by 05.09.2025 by providing advance copy to the petitioner.

11. List again on 10.09.2025.

JUDGE

Comparing Assistant