

GAHC010211672023



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

Case No. : WP(C)/5552/2023

DEEPAK BORAH
S/O- LATE KANAKESWAR BORAH,
R/O- RUPJYOTI NAGAR,
WARD NO-1,
P.O- GOLAGHAT,
DIST- GOLAGHAT, ASSAM, PIN-785621

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI
KAMRUP(M)
PIN- 781037
ASSAM.

3:THE DIVISIONAL FOREST OFFICER
GOLAGHAT DIVISION
PIN-785621
ASSAM

4:THE STATE LEVEL ENVIRONMENTAL IMPACT ASSESSMENT
AUTHORITY
ASSAM

BAMUNIMAIDAM
GUWAHATI
PIN--781021
REP. BY ITS MEMBER SECRETARY

5:THE DISTRICT LEVEL ENVIRONMENTAL IMPACT ASSESSMENT
AUTHORITY
REP. BY ITS CHAIRMAN

O/O THE DEPUTY COMMISSIONER
GOLAGHAT
PIN-785621
ASSAM

6:THE DEPUTY COMMISSIONER

COURT ROAD

DIST- GOLAGHAT
PIN-785621
ASSAM

7:THE CERTIFICATE OFFICER
GOLAGHAT

DIST- GOLAGHAT
PIN-785621
ASSA

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

22.09.2023

Heard Mr. P. Mahanta, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned Standing Counsel, Forest for the respondents No. 1 to 3 and Mr. S.R. Boruah, learned counsel for the respondents No. 5 to 6.

This writ petition has filed by the petitioner put into challenge the orders dated 18.06.2022 and 27.06.2022 as well as Bakijai notice dated 04.08.2023.

The petitioner was settled with a Silt Mahal, namely the Dhansiri Silt Mahal, for a period of 7 (Seven) years w.e.f. 15.02.2017. Because of various reasons including the COVID Pandemic situation, petitioner was unable to effectively carry on the contract. One of the reasons urged by the learned counsel for the petitioner is non-issuance of the Environment Clearance Certificate by the State Level Environment Impact Assessment Authority. Under such circumstances, the petitioner surrendered his settlement. In the process, by virtue of the order dated 27.06.2022, the settlement was terminated and his security money deposited was forfeited and he was barred from participation for a fresh tender for 5 years effective from the date of issue of the said impugned order. Being thus situated, the petitioner was thereafter, served the notice dated 04.08.2023 issued by the Certificate Officer under the Section 7 of the Bengal Public Demands Recovery Act, 1913. In terms of the said notice, an amount of Rs. 34,96,943/- (Rupees Thirty Four Lakhs Ninety Six Thousand Nine Hundred Forty Three Only) was sought to be recovered as a Certificate in respect of the said amount has been issued. Being agreed the present petition has been filed praying for adequate orders including interim orders.

Mr. R.R. Gogoi learned Standing Counsel for the Forest and Mr. S.R. Boruah, learned counsel for the respondents No. 5 to 7 submit that the amount is found due and therefore certificate was issued and consequent proceedings under the Bengal Public Demand Recovery Act, 1913 has been initiated and the notice dated 24.08.2023 for recovery has been issued. The learned counsels submit that under the Assam Mines and Minerals Concession Rules, 2013, the amount which is found to be due is recoverable as public demand. Therefore,

the provisions of the Bengal Public Demand Recovery Act has been invoked. There is no infirmity in the order impugned as well as the consequential proceedings for recovery of the amount. They submit that since the petitioner failed to run the settlement in terms of the provisions of the Rules, the amount is due and is therefore, recovered.

Having heard learned counsels for the parties, this Court considers at this stage that a Notice be issued.

Since learned counsels entered appearances on behalf of the respondents No. 1, 2, 3, 5, 6 & 7, notices are waived. However sufficient extra copies be furnished to the respective counsels within a period of one week from today.

Steps for service of notice on the respondent No. 4 be taken by registered post with A/D card within a period of one week from today.

Let the matter be listed again on 10.11.2023.

Till the next date fixed, no recovery in terms of the notice dated 04.08.2023.

JUDGE

Comparing Assistant