

GAHC010256972014



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

Case No. : WP(C)/4103/2014

JUGAL KUMAR NATH
S/O SRI GIRISH CHANDRA NATH R/O VILL- BATARHAT DAHALI
BATARHAT, P.S. PALASHBARI, DIST. KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
FOREST DEPARTMENT, SACHIVALAYA, DISPUR, GUWAHATI- 781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM

ENVIRONMENT AND FOREST DEPARTMENT
SACHIVALAYA
DISPUR
GUWAHATI- 781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF
FORESTS AND HEAD OF FOREST FORCE
ASSAM
REHABARI
GUWAHATI- 781008.

4:THE CHIEF CONSERVATOR OF FORESTS

CENTRAL ASSAM
PANBAZAR
GUWAHATI- 781001.

5:THE DIVISIONAL FORESTS OFFICER

KAMRUP WEST DIVISIONN

BAMUNIGAON
DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MS.N S THAKURIA, MR.M P BORAH,MR.D BORAH,MS.P DUTTA,MR.B D GOSWAMI

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

Linked Case : WP(C)/4780/2015

JUGAL KUMAR NATH
S/O SRI GIRISH CHANDRA NATH R/O VILL- BATARHAT DAHALI
P.O. BATARHAT
P.S. PALASHBARI
DIST. KAMRUP
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FOREST DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI - 781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM

ENVIRONMENT AND FOREST DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI- 781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS

AND HEAD OF FOREST FORCE
ASSAM
REHABARI
GUWAHATI- 781008.

4:THE CHIEF CONSERVATOR OF FORESTS

CENTRAL ASSAM
PANBAZAR
GUWAHATI- 781001.

5:THE CONSERVATOR OF FORESTS

CENTRAL ASSAM CIRCLE
PANBAZAR
GUWAHATI- 781001.

6:THE DIVISIONAL FORESTS OFFICER

KAMRUP WEST DIVISION
BAMUNIGAON
DIST. KAMRUP
ASSAM
PIN - 781141.

Advocate for : MS.P DEB
Advocate for : appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/4266/2016

JUGAL KR. NATH
S/O- SRI GIRISH CHANDRA NATH
R/O VILL.- BATARHAT DAHALI
P.O.- BATARHAT
P.S.- PALASHBARI
DIST.- KAMRUP
ASSAM.

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE COMMISSIONER and PRINCIPAL SECY. TO THE GOVT. OF
ASSAM
FOREST DEPTT.
ASSAM SACHIVALAYA
DISPUR
GHY- 6.

2:THE SECY. TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT.
ASSAM SACHIVALAYA

DISPUR
GHY- 6.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GHY- 37.

4:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS T
LOWER ASSAM ZONE
PANBAZAR
GHY- 1.

5:THE CHIEF CONSERVATOR OF FORESTS
CENTRAL ASSAM CIRCLE
PANBAZAR
GHY- 1.

6:THE DIVISIONAL FORESTS OFFICER
KAMRUP WEST DIVISION
BAMUNIGAON
DIST.- KAMRUP
ASSAM
PIN- 781141.

7:NILIMA BODO
W/O- SRI BINOY DAS
JANATA PRESS ROAD
MIRZA- 781125
P.O.- MIRZA
P.S.- PALASBARI
DIST.- KAMRUP
ASSAM.

Advocate for : MS.N DEB
Advocate for : MS.R BORAH appearing for THE STATE OF ASSAM and 6 ORS.

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

10.09.2024

Heard Ms. N. S. Thakuria, learned counsel for the petitioner. Also heard Mr. I. Borthakur, learned Standing Counsel for the Forest Department.

WP(C)/4103/2014 was filed seeking a direction to the respondent authorities to make a reasonable and judicious decision on the availability of sand for extraction from Batha River Mining Contract Area No. 2, under Lohar Ghat Forest Range, Kamrup District for the period from 2013 to 2020. Admittedly, the period of mining contract was for the period 2013-2020.

Thereafter, during the pendency of the aforesaid writ petition, WP(C)/4266/2016 was filed assailing an order dated 10.05.2016 issued by the Principal Chief Conservator of Forests and Head of Forest Force, Assam on the ground that the said Principal Chief Conservator of Forests had granted mining permit allowing mineral concession within the area of mining contract of the petitioner.

Thus, after expiry of the initial mining period, nothing shall survive in respect of WP(C)/4103/2014. Similar shall be the case in respect of WP(C)/4266/2016. Subsequently, WP(C)/4780/2015 was filed assailing an order No. 208 dated 03.08.2015 issued by the Divisional Forest Officer, Kamrup West Division whereby the mining contract issued in favour of the petitioner was cancelled.

So far relating to WP(C)/4780/2015, this Court initially granted an interim protection under its order dated 14.08.2015 to the effect that subject to deposit of an amount of Rs. 30,000,00/- (Rupees Thirty Lakhs) within a period of two weeks from 14.08.2015, the operation of order dated 03.08.2015 which was put under challenge

in WP(C)/4780/2015 shall remain suspended. However, order dated 04.05.2016 passed in the aforesaid writ petition, reflects that the deposit could not be made in the absence of challan or want of particulars under what head, the payment would be received.

Be that as it may, it is an admitted position that the Rs. 30,000,00/- (Rupees Thirty Lakhs), was not deposited. In the meantime, the period of contract has also been over. Therefore, at this stage, Ms. Thakuria, learned counsel for the petitioner submits that the petitioner had suffered a lot and above all, the security deposit amounting to Rs. 33,46,333/- is still pending with the Forest Department and in the meantime, the mining contract was entered with some other person so far relating to the mining area in question.

The Forest Department has not filed any affidavit, though the matters are pending since the year 2015. However, at this stage, Mr. I. Borthakur, learned Standing Counsel for the Forest Department seeks for one week time to obtain instruction whether the security deposit can be refunded to the petitioner. Prayer is allowed.

List these matters on 23.09.2024 in the order(s) column.

JUDGE

Comparing Assistant