

GAHC010269072024



2026:GAU-AS:815

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

**Case No. : WP(C)/6756/2024**

AKASHJYOTI KONWAR

S/O LATE NABIN CHANDRA KONWAR, R/O CHAPORI PATH, WARD NO. 6,  
CHIRING CHAPORI, DIBRUGARH WEST, P.O., P.S. AND DIST- DIBRUGARH,  
ASSAM-786001

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,  
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, ASSAM  
SECRETARIAT, DISPUR, GUWAHATI-06

2:THE DISTRICT COMMISSIONER  
TINSUKIA  
BORGURI  
TINSUKIA  
ASSAM-786126

3:THE CO-DISTRICT COMMISSIONER  
MARGHERITA  
DIST- TINSUKIA  
ASSAM-786181

4:THE DIRECTOR  
DIRECTORATE OF GEOLOGY AND MINING  
KAHILIPARA  
GUWAHATI  
ASSAM-781019

5:THE SENIOR GEOLOGIST  
OFFICE OF THE RESIDENT GEOLOGIST  
DIRECTORATE OF GEOLOGY AND MINING  
ASSAM  
DIBRUGARH-78600

**Advocate for the Petitioner** : MR. B D KONWAR SR. ADV., MS S JAIN,MR P DOLEY,MS M ZOMUANPUII,MR J SINGH,MR H AGARWAL,MRS J M KONWAR

**Advocate for the Respondent** : SC, REVENUE, GA, ASSAM

**BEFORE**

**Hon'ble MR. JUSTICE SANJAY KUMAR MEDHI**

**Advocate for the petitioner** : Shri H. Agarwal, Advocate.

**Advocate for the respondents** : Shri S.R. Boruah, G.A., Assam &  
Shri S. Dutta, SC, Revenue Deptt.

**Date on which judgment is** : NA  
**Reserved.**

**Date of pronouncement of** : 22.01.2026.  
**Judgment.**

**Whether the pronouncement** : NA.  
**is of the operative part of the**  
**judgment?**

**Whether the full judgment** : Yes.  
**has been pronounced?**

**JUDGMENT & ORDER (Oral)**

The instant writ petition has been filed with the following reliefs:

*“It is therefore humbly prayed that this Hon'ble Court may be graciously  
pleased to admit this petition, call for the records, and on perusal of the*

*records and upon hearing the parties may be pleased to –*

*i. Direct the respondent Nos. 3 & 4 to release the coal stock in favor of the petitioner;*

*ii. Stay the e-auction process initiated by Respondent Nos.4 & 6 concerning the petitioner's coal stock;*

*And/or may be pleased to pass such or further order as this Hon'ble may deem fit and proper.”*

**2.** The facts as projected in the writ petition, in brief, are that the petitioner is the sole proprietor of M/S East India Trading which operates a coal depot in the district of Tinsukia in which, the coal is processed into coke coal for distribution in the country. The petitioner claims to be registered under the GST and is also in possession of necessary licenses, including the approvals from the Assam Panchayat Act, Pollution Control Board and Department of Mines and Minerals. However, the coal stock was seized on 28.06.2024 without prior notice or by following the due process of law. On the same date, however, a notice was issued to the land owner who had submitted his response on 02.07.2024 by furnishing all the relevant documents in spite thereof, no action has been taken.

**3.** This Court, while issuing notice vide order dated 17.12.2024, had passed an interim order that the e-auction notice issued in the meantime should not be acted upon and that interim order has been extended from time to time and is in operation till date.

**4.** I have heard Shri H. Agarwal, learned counsel for the petitioner. I have also heard Shri S.R. Boruah, learned State Counsel, Assam as well as Shri S. Dutta, learned

Standing Counsel, Revenue Department, Assam.

**5.** Shri Agarwal, the learned counsel for the petitioner has submitted that the petitioner is a lease holder of a plot of land from which, the business is being run and he is in possession of all the necessary permission and licence. He has drawn the attention of this Court to the licence issued by the concerned Gaon Panchayat and also the permission by the Department of Mines and Minerals. The learned counsel has submitted that all other formalities are being duly fulfilled by the petitioner and the impugned action is grossly illegal. He has also drawn the attention of this Court to Section 23-B of the Mines and Minerals (Development & Regulation) Act, 1957 (Act) which deals with the Power to Search. He has highlighted that there is a requirement for compliance of the provision of Section 100 of the Cr.P.C. while making such search and the said provision of the Cr.P.C. has been grossly violated. He has also submitted that the impugned action is not supported by any law and the same is required to be interfered with as it impedes the right to have a fair business in accordance with law.

**6.** *Per contra*, Shri Boruah, learned State Counsel, at the outset, has submitted that the statute holding the field provides for preferring an appeal as well as revision. In this regard, he has drawn the attention of this Court to the Assam Minerals Regulation and Dealers Rules, 2020 (Rules of 2020), more particularly, Rules 12 and 13 thereof which relate to preferring an appeal and revision by an aggrieved party. On the merit of the case, the learned State Counsel has submitted that though certain documents have been put on record by the petitioner in support of his claim, those documents are not relevant. By specifically referring to the licence issued by the Gaon Panchayat, Shri Boruah, learned State Counsel has submitted that the period has been mentioned from 01.07.2024 to 30.06.2025 whereas, the impugned action is of a prior date which is 28.06.2024. He has similarly drawn the attention of this Court to the permission

granted by the Department of Mines and Minerals which is based on an application dated 08.08.2024 as would appear from Sl. No. 13 of the said permission. By referring to the affidavit-in-opposition filed by the respondent no. 4 on 10.06.2025, more particularly, the averments made in paragraph 7 of the same, the learned State Counsel has submitted that there are no e-way bills to justify the business and transaction of the petitioner. He submits that the petitioner is not entitled to any equitable relief from this Court.

**7.** Shri Agarwal, the learned counsel, in his rejoinder has, however, submitted that the effective licences at the time of filing of the writ petitions were put on record and there would be previous documents to show that the business of the petitioner was run on a lawful basis. He has also submitted that the requirement of the e-way bills would be there only when the bill amount of the business of a particular invoice exceeds to Rs. 50,000/- and in the present case, the same is less than the aforesaid stipulated amount.

**8.** The rival submissions have been duly considered and the materials on records have also been carefully examined.

**9.** The pleadings in the petition have been perused and apart from a vague assertion that there has been violation of the law, there is no reference to any of the statute, including Section 23-B of the Act which also refers to Section 100 of the Cr.P.C. However, those being questions of law, the petitioner would not be precluded from raising those points in support of his claim. At the same time, the jurisdiction exercised by this Court under Article 226 of the Constitution of India is equitable in nature wherein the party approaching this Court has to *prima facie* make out a case of his *bonafide*. Both the licence issued by the Gaon Panchayat and the permission issued by the Department of Mines and Minerals are of subsequent periods which have been

mentioned above whereas the impugned action is of a prior date i.e., 28.06.2024. Though the learned counsel for the petitioner has submitted that there would be previous permission of the concerned period, not to talk about any documents being enclosed to the rejoinder affidavit, no such averments have also been made.

**10.** Without going further into the issue, this Court is also of the opinion that questions of fact are involved in this proceeding which are disputed in nature and the Rules of 2020 clearly provides for appeal and revision.

**11.** Shri Agarwal, learned counsel for the petitioner has expressed an apprehension that in absence of any order passed by the authority, an appeal may not be entertained. This Court is, however, of the opinion that the grievance which has been raised by the petitioner in the instant case can very well be raised before the Appellate Authority who is empowered under Rule 12 of the Rules of 2020 to entertain such appeal and to adjudicate the same in accordance with law. This Court has also noticed that Rule 12 prescribes a period of limitation of 30 days which has expired long back. However, considering that this writ petition was filed immediately after arising of the cause of action and there is also an interim order operating till date, interest of justice would be served if the appeal, if so filed by the petitioner, is directed to be entertained by the Appellate Authority without going into the aspect of limitation.

**12.** The writ petition accordingly stands disposed of by directing the petitioner to prefer an appeal on or before 13.02.2026 and if the same is done, the Appellate Authority shall not insist of any further application for explanation of delay. The appeal, if filed, is to be decided on its own merit and by taking into consideration the facts and circumstances. In the adjudication process, the Appellate Authority is required to give the petitioner an opportunity of hearing and the decision taken is to be in the form of a Speaking Order which is required to be communicated to the

petitioner in accordance with law.

**13.** It is further provided that till such appeal is decided, the interim order passed by this Court would remain operative.

**JUDGE**

**Comparing Assistant**