

GAHC010285842023



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

Case No. : WA/468/2023

BIJU KUMBANG
S/O TARUN KUMBANG R/O NATUN MISING GAON PO AND P.S
SILAPATHAR DIST. DHEMAJI ASSAM

VERSUS

1.THE STATE OF ASSAM AND 4 ORS
REP HEREIN BY ITS PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
ENVIRONMENT AND FOREST DEPTT ASSAM SECRETARIAT DISPU
GUWAHATI ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE ASSAM ARANYA BHAWAN PAJABARI GUWAHATI 781037

3:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FOREST (T)
UPPER ASSAM ZONE BASISTHA GUWAHATI 781061

4:THE DIVISIONAL FORESTS OFFICER
DHEMAJI DIVISION DIST. DHEMAJI ASSAM

5:ANJALA BASUMATARY
W/O SRI SATHO BASUMATARY R/O JYOTINAGAR WARD NO 2 P.O. AND P.S
SILAPAHAR DIST. DHEMAJI ASSAM PIN 78705

For the Appellant(s) : Mr. K.N. Choudhury, Senior Advocate assisted
by Mr. S. Borthakur, Advocate.

For the Respondent(s) : Mr. D. Gogoi, Standing Counsel, Forest
Department for respondent Nos.1 to 4.
: Mr. T.J. Mahanta, Senior Advocate assisted by
Mr. J. Sarmah, Advocate for respondent No.5.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

19.01.2026

(Ashutosh Kumar, CJ)

We have heard Mr. K.N. Choudhury, learned Senior Advocate assisted by Mr. S. Borthakur, learned Advocate for the appellant; Mr. D. Gogoi, learned Standing Counsel, Forest Department for respondent Nos.1 to 4 and Mr. T.J. Mahanta, learned Senior Advocate assisted by Mr. J. Sarmah, learned Advocate for respondent No.5/writ petitioner.

2. The present appeal has been preferred by the appellant challenging the judgment and order dated 08.12.2023 passed by a learned Single Judge of this Court in WP(C) No.5728/2021 and WP(C) No.1609/2022.

3. The tender process for the mining rights began with the issuance of the Notice Inviting Tender (NIT) by the Divisional Forest Officer, Dhemaji Division, Dhemaji on 11.06.2021 inviting bids for the Simen Sand and Gravel Mining Concession Area (for short, 'Mahal') in the Dhemaji district.

4. Bids were submitted online and the technical evaluation was conducted.

5. The bid of respondent No.5/writ petitioner was initially cleared but later rejected by a speaking order dated 03.09.2021 for the bid reflecting two defects; viz. (i) there was a failure to digitally sign a Rs.100 court fee stamp; and (ii) incorrect naming of the Mahal in the affidavit

of respondent No.5 (calling it "Simen Quarry" instead of "Simon Sand and Gravel Mining Concession Area").

6. The affidavit of respondent No.5/writ petitioner was also found to be erroneous for the reason of certain missing documents.

In that event, the bid of the appellant was accepted and a Letter of Intent (LOI) was issued on 19.09.2021. The security deposit was made 10 days later and the work order was issued.

7. The writ petitioner filed WP(C) No.5728/2021 challenging the speaking order dated 03.09.2021 by which the representation filed by her relating to NIT dated 11.06.2021 was rejected and her technical bid was held to be non-responsive. The writ petitioner/respondent No.5 also challenged the decision to award the contract to the appellant vide WP(C) No.1609/2022 alleging violation of principles of natural justice and that the defects pointed out in her bid being of a minor nature and easily curable.

8. Before the Writ Court, the Forest Department defended the rejection of the bid of respondent No.5/writ petitioner; explaining that the tender conditions were strict and sacrosanct; and the defects justified disqualification.

9. The appellant also naturally supported the stand of the Forest Department and explained that his bid was free of anomalies in comparison to the defects in the bid of respondent No.5, which were fundamental, rendering the bid of respondent No.5 invalid under Clause 13 of the tender documents.

It was also argued before the Writ Court that the third party right had accrued and, therefore, no interference was required to be made with the decision of the Forest Department.

10. However, the writ petitions were allowed. The speaking order dated 03.09.2021, referred to above, and the consequent work order date 01.12.2021 were set aside. A fresh e-auction was directed to be made to determine the highest bid, allowing the parties (the writ petitioner and the appellant) to participate and have their bids evaluated appropriately, keeping in mind the public interest of maximization of revenue.

11. However, it appears, as on date, the direction of a fresh e-auction for adjudging the highest financial bid was understood to mean that the financial evaluation only was required to be done afresh. The Forest Department proceeded in that direction but the work was stalled for the reason of an *interim* order passed in this appeal.

12. The filtrate situation of this was that the work could not be continued and the time period of auction was substantially consumed, leaving only few months for the auction to remain valid.

13. Under such circumstances and with the consent of the parties, we clarify that the impugned judgment ought to have been understood as a direction for a fresh e-auction for the mining rights.

14. The appellant as well as the respondent No.5 are ready for a fresh e-auction of the mining rights in which both of them would be permitted to participate. The State in the Forest Department also is agreeable for the same, primarily for the reason that without this

endeavour, the period of the earlier auction would expire, leaving the work unfinished anyways.

15. We, therefore, deem it appropriate, with the consent of the parties, to conclude that a fresh e-auction shall be made, allowing the appellant and the respondent No.5 as also the other participants the occasion to get their respective bids evaluated, and a decision shall be taken on such evaluation for issuance of the work order.

16. We order accordingly.

17. We also direct that in this event, the security deposit of the parties be also returned as expeditiously as possible, preferably before floating a fresh tender.

18. This writ appeal stands disposed off accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant