

GAHC010113092023



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

Case No. : I.A.(Civil)/1423/2023

R B ENGINEERING AND INFRASTRUCTURE PRIVATE LTD.
(CIN NO U74210AS2012PTC011127), HAVING ITS REGISTERED OFFICE AT
BISHNU NAGARH, P.O.-DIBRUGARH, P.S.-DIBRUGARH SADAR, DIST-
DIBRUGARH, ASSAM, PIN-786001. PETITIONER/COMPANY IS
REPRESENTED BY ITS DIRECTOR SHRI BIJOY BORUAH, AGED ABOUT 50
YEARS, S/O JEW RAM BORUAH, R/O BISHNU NAGARH, P.O.-DIBRUGARH,
P.S.-DIBRUGARH SADAR, DIST-DIBRUGARH, ASSAM, PIN-786001.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR,
GUWAHATI-781006.

2:THE DISTRICT MAGISTRATE-CUM-DEPUTY COMMISSIONER
DIST-GOLAGHAT
P.O.-GOLAGHAT
P.S.-GOLAGHAT
GOLAGHAT
ASSAM
PIN-785621

3:THE EXECUTIVE ENGINEER
PWD GOLAGHAT (N H DIVISION)
P.O.-GOLAGHAT
P.S.-GOLAGHAT
DIST-GOLAGHAT
ASSAM

4:THE ASSISTANT EXECUTIVE ENGINEER
PWD GOLAGHAT N.H. SUB-DIVISION

GOLAGHAT
P.O.-GOLAGHAT
P.S.-GOLAGHAT
DIST-GOLAGHAT
ASSA

Advocate for the Petitioner : MR. S N TAMULI

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/1066/2023

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ASSAM

Advocate for : MR. S N TAMULI

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 30-06-2023

Heard SN Tamuli, learned counsel for the petitioner as well as Mr. K. Gogoi, learned Addl. Senior Govt. Advocate for the respondent nos.1 and 2 and Mr. B. Gogoi, learned standing counsel for PWD representing respondent nos.3 and 4.

2. The impugned order no. MJ-31/77/2022-MAG-GLT dated 13.02.2023 issued by the respondent no.2 whereby the petitioner was asked to close the functioning of its Batch Mix Plant situated near NRL Tankers Stand, Bishnupur, Golaghat, Assam has been assailed in this writ petition filed under Article 226 of the Constitution of India.

3. In view of the order proposed to be passed, issuance of notice on the respondents has been dispensed with.

4. It may be mentioned that the connected IA has been filed by the writ petitioner, seeking stay of the interim order dated 13.02.2023, which is impugned in the connected writ petition, till the disposal of the connected writ petition.

5. The learned Addl. Senior Govt. Advocate has produced instructions, which amongst others, contains a copy of the letter dated 08.03.2023 by the Executive Engineer, PWD to the Addl. District Magistrate, Golaghat, whereby it is projected that the petitioner is plying vehicle from his Batch Mixed Plant directly to the National Highway, without using the service road, which has completely damaged the National Highway near the Batch Mix Plant of the petitioner.

6. It is also projected that the petitioner is not only allowing parking of heavy vehicles on the National Highway, but it is also dumping raw materials on the side of the National Highway. The petitioner is also been accused of filling up natural drainages near the National Highway to convert them into parking space and to support the said contentions, a series of photographs of the damaged portion of the National Highway near the plant of the petitioner has been also produced.

7. It is submitted that without an order of right of way, the National

Highway can only be accessed through service road and it is the duty of the petitioner who is seeking access to come to the National Highway to construct and maintain the service road and the access can only be through a nearby cross road.

8. It is noted that none of the grounds which have been referred to in the said letter dated 08.03.2023 is contained in the impugned order dated 13.02.2023. Therefore, the District Magistrate, Golaghat, who has passed the impugned order dated 13.02.2023 shall provide the petitioner all the necessary documents based on which the closure order has been passed against the petitioner, which shall be provided within a period of 7 days from date of producing a certified copy of this order, so as to inform the petitioner about the nature of violations for which his plant has been closed.

9. The said authority shall also provide an opportunity to the applicant-petitioner to submit his representation within a period of 7(seven) days thereafter, and on such representation being made by the petitioner, the District Magistrate, Golaghat shall give an opportunity of personal hearing to the petitioner within 7(seven) days thereafter and the matter shall be decided afresh by taking into account the reply submitted by the petitioner and considering the submission made in course of personal hearing. Thereafter, the matter shall be disposed of by passing a speaking order within 15(fifteen) days thereafter. The said order shall be served on the petitioner through his e-mail address, to be provided by the petitioner while producing a certified copy of this order to the learned District Magistrate, Golaghat.

10. The applicant-petitioner shall produce a certified copy of this order before the District Magistrate, Golaghat.

11. In the meanwhile the learned Addl. Senior Govt. Advocate shall also transmit a downloaded copy of this order to the District Magistrate, Golaghat to bring the order to his notice so that the said authority can act as per to the timeline as provided in this order.

12. In the event, due to certain compelling reasons, the timeline provided in this order cannot be adhered to, the District Magistrate, Golaghat is granted to move this Court for extension of time.

13. It is needless to mention that if the petitioner is still aggrieved by any order that may be passed by the District Magistrate, Golaghat, the petitioner would be at liberty to approach the Court again.

14. In view of the order passed, today this writ petition as well as the connected IA stands disposed of at the motion stage without issuance of notice on the respondents.

15. The instructions produced by the learned Addl. Senior Govt. Advocate is returned.

JUDGE

Comparing Assistant