

GAHC010095022023



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

Case No. : I.A.(Civil)/1176/2023

SAHABUL ISLAM,
SON OF LATE SFIYAR RAHMAN,
R/O- PACHIM MATIA,
P.S. MATIA, PIN- 783125,
DISTRICT- GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 11 ORS
REPRESENTED THROUGH THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM, FOREST AND ENVIRONMENT DEPARTMENT,
SACHIVALAYA, DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI- 781037.

3:THE ADDL. PRINCIPAL CHIEF CONSERVATOR OF FOREST (T)
LOWER ASSAM ZONE
BASISTHA
GUWAHATI- 781029.

4:THE CHIEF CONSERVATOR OF FORESTS (T)
CENTRAL ASSAM CIRCLE
GUWAHATI- 781029.

5:THE DIVISIONAL FOREST OFFICER (T)
GOALPARA DIVISION
GOALPARA
DISTRICT- GOALPARA.

6:THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
ASSAM
REPRESENTED THROUGH THE MEMBER SECRETARY-CUM-SECRETARY
TO THE GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI- 781006.

7:THE UNION OF INDIA
REPRESENTED THROUGH THE SECRETARY
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
NEW DELHI- 110003.

8:TAPAN CHANDRA DAIMARY
S/O- SHAILENDRA DAIMARY
P.O. AND P.S. DUDHNOI
DISTRICT- GOALPARA
PIN- 783124.

9:DEEPJYOTI BARUAH
R/O- DAMRA PATPARA VILLAGE
P.O.- DAMRA
DUDHNOI REVENUE CIRCLE
DISTRICT- GOALPARA
PIN- 783122.

10:BIDYAN RAJBANGSHI
R/O- DAMRA PATPARA VILLAGE
P.O. DAMRA
DUDHNOI REVENUE CIRCLE
DISTRICT- GOALPARA
PIN- 783122.

11:JAGANNATH NATH
R/O- GAJIAJANI VILLAGE
P.O.- MORNIOI
P.S.- MORNIOI
DISTRICT- GOALPARA
PIN- 783101.

12:GIRISH NATH
R/O- DAHIKATA VILLAGE
P.O.- DAHIKATA
P.S. MATIA

DISTRICT GOALPARA
PIN- 783101

Advocate for the Petitioner : MR. J M GOGOI

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 09-05-2023

Heard Mr. BD Goswami, learned counsel for the applicant/petitioner.
Also heard Mr. RR Gogoi, learned Standing Counsel, Forest Department.

2. The prayer of the applicant/petitioner is to allow him to participate in the short e-auction notice dated 12.04.2023 pertaining to the Domoni River Sand Mahal No. 1. The applicant's counsel submits that the applicant/petitioner is presently having settlement of the Dudhnoi River Sand Mahal No.3(B). Though the applicant/petitioner had given the first kist money with regard to the Dudhnoi River Sand Mahal No.3(B) on October 2022, the applicant/petitioner has not paid the 2nd kist money, which was due in January, 2023 and thereafter.

3. The applicant's counsel submits that due to scarcity of sand in his Mahal, the applicant/petitioner had submitted letter dated 10.12.2022 to the respondent No. 2 to allow the applicant/petitioner to withdraw from the settlement of the Dudhnoi River Sand Mahal No.3(B). The applicant's counsel had also submitted a subsequent letter dated 04.01.2023 to the respondent No. 5 stating that as there was no sand left in the Mahal, he should be allowed to extract sand by extending the area of the Mahal for a distance of 15 kms. The

applicant's counsel submits that the two representations/letters submitted by the applicant/petitioner to the State respondents have not been decided till date, inasmuch as, no communication has been given or addressed to the applicant/petitioner with regard to the above two representations/letters.

4. The applicant's counsel submits that the applicant/petitioner has prayed for allowing him to participate in the online auction/tender process of the Domoni River Sand Mahal No. 1. However, in view of the fact that the State respondents have not taken any decision on the petitioner's two representations/letters and keeping in view that the applicant/petitioner has not paid the 2nd and 3rd kist of Dudhnoi River Sand Mahal No.3(B) till date, the applicant/petitioner apprehends that his offer/bid may not be accepted on the ground of non-payment of kist money.

5. Mr. RR Gogoi, learned Standing Counsel, Forest Department submits that no agreement has been signed with the applicant/petitioner till today with regard to the extraction of sand from the Dudhnoi River Sand Mahal No.3(B) in terms of the Assam Minor Mineral Concession Rules, 2013.

6. On considering the fact that no decision has been communicated to the applicant/petitioner with regard to his two representations/letters, for withdrawing from the settlement of the sand mahal or for granting an extended area for continuing with the extraction of sand, this Court is of the view that the applicant/petitioner should be allowed to participate in the tender process for extraction of sand from the Domoni River Sand Mahal No. 1. The selection of the applicant/petitioner with regard to the above tender process shall be subject to the final decision to be taken in WP(C) No. 214/2023.

7. Mr. RR Gogoi, learned Standing Counsel, Forest Department shall

communicate the contents of this order to the DFO, Goalpara.

8. Interlocutory application stands disposed of accordingly.

JUDGE

Comparing Assistant