

GAHC010150872023



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

Case No. : WP(C)/4437/2023

VIVIK CYLINDERS PRIVATE LTD.
A PRIVATE LIMITED COMPANY, HAVING ITS REGD. OFFICE AT
ABHOYPUR, COLLEGE NAGAR, NORTH GUWAHATI-31.
REP. BY ONE OF ITS DIRECTOR,
RUPAK MAHANTA, AGED ABOUT 56 YRS.
C/O- R.P MAHANTA,
R/O- ABHOYPUR, COLLEGE NAGAR, NORTH GUWAHATI-31.
KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPTT. ASSAM, DISPUR, GUWAHATI-6

2:THE CHIEF ENGINEER
PWD (ROADS)

CHANDMARI
GUWAHATI
PIN- 781003
DIST. KAMRUP(M)
ASSAM

3:THE EXECUTIVE ENGINEER

BRAHMAPUTRA BRIDGE PWRD CONSTRUCTION DIVISION
FATASIL AMBARI
GUWAHATI-25
KAMRUP (M)
ASSAM

4:THE PROJECT MANAGER
SP SINGLA CONSTRUCTIONS PRIVATE LIMITED

NEW BRAHMAPUTRA BRIDGE PROJECT
ABHOYPUR
NORTH GUWAHATI

IN FRONT OF NORTH GUWAHATI POLICE STATION
NORTH GUWAHATI-31

5:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
ASSAM
PIN-78103

For the Petitioner(s) : Mr. P. K. Roychoudhury, Sr. Advocate

For the Respondent(s) : Mr. B. Choudhury, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 16.08.2023

1. The instant writ petition has been filed by the Petitioner seeking a direction upon the Respondent Authorities and more particularly to the Respondent Nos. 3 and 4 to provide sufficient facilities by installing stable and durable slab/ramp over the constructed culvert in the entrance gate of the business premises of the Petitioner company and further with a direction to the Respondent Authorities not to make any extension of excavation and construction of any culvert in the entrance gate of the business premises of the petitioner company as well as a direction upon the Respondent Authorities not to cause any further inconvenience for ingress and egress into the business premises of the Petitioner company by way of construction of any culvert/road in future.

2. This Court vide an order dated 09.08.2023 directed Mr. P. Nayak, the

learned Standing counsel for the PWD to obtain instruction from the concerned Executive Engineer in respect to (i) whether the ingress and egress to the Petitioner's factory has been closed/blocked due to construction of the drain and (ii) the time that would be required for construction of the cover/slab over the open drain so to allow access to the Petitioner's factory.

3. Today, Mr. B. Choudhury, the learned Standing counsel appearing on behalf of the PWD has produced an instruction issued by the Executive Engineer, PWRD, Brahmaputra Bridge Construction. The said instruction being relevant is kept on record and marked with the letter "X".

4. As regards the query at Serial No.(i) above, it was informed to this Court that the vent height of the newly constructed culvert is only 3m (size: 5m x 3m) and the load bearing RCC slab of width 8.5m has already been constructed over the side drain with proper earthen ramp up to the entrance gate (width 6.6m) of the Petitioner. It was further mentioned that in that view of the matter, the Petitioner's factory has not been closed or blocked due to construction of surface drain of the highway.

5. As regards the query made at Serial No.(ii) above, it was informed to this Court that the construction of the six-lane bridge over Brahmaputra River including the highway is going on with full swing as per technical specifications and drawings. It was further mentioned that as on date, physical progress of the said construction of the bridge is 76%. Under such circumstances, keeping view of the physical progress, the completion of the project would not require much more time. It was further mentioned that after completion of the side drain and road works, an access point would be provided to the petitioner's factory. It was also mentioned that a temporary earthen entrance ramp has

already been constructed over the side drain for the entrance to the Petitioner's factory.

6. This Court further on the basis of the said instructions, enquired with Mr. B. Choudhury, the learned Standing counsel appearing on behalf of the PWD as to how much further time would be required for the purpose of construction of the entrance to the Petitioner's factory. He submitted that as per his instructions, the bridge in question is likely to be completed by December, 2023. He submitted that for reasons other than force majeure, the entrance ramp to the petitioner's factory would be constructed by December, 2023.

7. Taking into account the above, this Court is of the opinion that the instant writ petition can be disposed of by taking into account the instructions so kept on record and marked with the letter "X" as well as also the submission made by Mr. B. Choudhury to the effect that by December 2023, the entrance ramp to the Petitioner's factory would be provided by the Respondent Nos. 3 and 4, unless for reasons of force majeure.

8. The above shall be taken as an undertaking and as such this Court therefore directs the Respondent Nos. 3 and 4 to install the ramp to the entrance of the Petitioner's factory by December, 2023 subject to force majeure conditions which shall be duly informed to the Petitioner.

9. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant