

GAHC010155322023



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

Case No. : WP(C)/4039/2023

BHABANI RABHA
SON OF LATE PUSPADHAR RABHA,
RESIDENT OF TANGLA TOWN,
P.O. AND P.S.- TANGLA,
DIST.- UDALGURI, BTC, ASSAM,
PIN- 784521.

VERSUS

BODOLAND TERRITORIAL COUNCIL AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY,
BODOLAND TERRITORIAL COUNCIL (B.T.C.),
BODOFA NWGWR, KOKRAJHAR,
DIST.- KOKRAJHAR, ASSAM.
PIN- 783370.

2:THE JOINT SECRETARY
FOREST AND WILDLIFE DEPARTMENT
BODOLAND TERRITORIAL COUNCIL
BODOFA NWGWR
KOKRAJHAR

PIN- 783370.

3:THE ADDITIONAL CHIEF CONSERVATOR OF FORESTS AND CHD FOREST
B.T.C.
KOKRAJHAR
PIN- 783370.

4:THE DIVISIONAL FOREST OFFICER
DHANSIRI FOREST DIVISION
UDALGURI

DIST.- UDALGURI (BTC)

ASSAM
PIN- 784509

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : SC, BTC

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 05-08-2023

Heard Mr. M. Sarania, learned counsel for the petitioner and Mr. P. Nayak, learned Standing Counsel, BTC for all the respondents.

2. Having regard to the limited point raised by the learned counsel for the petitioner and as agreed to by the learned counsel for the parties, this writ petition is taken up for disposal at the motion stage itself.

3. The petitioner was granted Minor Mineral Concession Contract in respect of Sahabasti Sand Mahal for a period of 7 [seven] years by a Letter of Intent [provisional] dated 06.07.2015 by the Divisional Forest Officer, Dhansiri Forest Division, Udalguri at an annual price of Rs. 7,86,429/-.

4. Mr. Sarania, learned counsel for the petitioner has submitted that notwithstanding the disputes raised by the petitioner earlier as regards overlapping of boundaries between Sahabasti Sand Mahal, settled with him, and another newly created sand mahals, Nunoit Takankata [Namjola Sand Mahal], leased to one Nilamoni Boro, located nearby the petitioner's Sahabasti Sand Mahal, the petitioner had faced certain other difficulties in extracting sands from

Sahabasti Sand Mahal, *firstly*, during the period from October, 2019 to December, 2019 due to protests, demonstrations, strikes, bandhs, etc. called by the civil societies of Assam in view of the Citizenship Amendment Bill, 2019 and later on, the Citizenship Amendment Act; and *secondly*, during the period from January, 2020 to March, 2020 in view of emergence of Covid-19 pandemic.

5. As the settlement period of 7 [seven] years was over in the year 2022, the petitioner has claimed that highlighting the difficulties he had faced in extracting sand from Sahabasti Sand Mahal during the afore-said two quarters i.e. October,- 2019 to December - 2019 and January - 2020 to March,- 2020, he submitted a representation before the respondent no. 1 on 23.12.2022 seeking *inter alia* consideration of his prayer for return of *kist* money for the aforesaid two quarters apart from release of his earnest money deposited at the time of granting settlement. As the said representation dated 23.12.2022 is yet to be disposed of, Mr. Sarania has submitted that the same should deserve consideration on merits.

6. Mr. Nayak, learned Standing Counsel, BTC has not objected to the prayer for disposal of the representation on merits.

7. As the learned counsel for the parties have submitted that the representation dated 23.12.2022 has not yet been disposed of, this Court is of the considered view that the Principal Secretary, BTC may take the said representation dated 23.12.2022 on board and after due consideration of the grievances raised by the petitioner on the basis of the relevant records, the Principal Secretary, BTC can dispose of the same within a reasonable period of time by passing a speaking order. Accordingly, this writ petition is disposed of directing the Principal Secretary, BTC to take the representation dated

23.12.2022 filed by the petitioner on board and after due consideration, dispose of the same on merits by passing a speaking order within a period of 6 [six] weeks from the date of submission of a certified copy of this order along with the copy of the writ petition along with annexures, at the office of the Principal Secretary, BTC by the petitioner. It is made clear that this Court has not made any observation as regards the merits of the claim of the petitioner and the respondent authorities shall consider the claim of the petitioner on its own merits and in accordance with law.

8. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant