

GAHC010214302023



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

Case No. : WP(C)/5628/2023

PRANJAL SAIKIA
S/O LATE KONPAI SAIKIA, R/O KAMALABARI, NEAR KAMALABARI HARI
MANDIR, P.O.-KAMALABARI, DIST- MAJULI, ASSAM, PIN-785106

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF FOREST AND
ENVIRONMENT, DISPUR, GUWAHATI-781006

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037
DIST- KAMRUP (M)
ASSAM

3:THE CONSERVATOR OF FOREST
EASTERN ASSAM CIRCLE
JORHAT
P.O.-JORHAT
DIST- JORHAT
ASSAM

4:THE DIVISIONAL FOREST OFFICER
MAJULI (T)
P.O.-GARAMUR
DIST-MAJULI
ASSAM

PIN-78510

Advocate for the Petitioner : MS M BORAH

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

04.10.2023

Heard Ms. M. Borah, learned counsel for the petitioner and Mr. R.R. Gogoi, learned Standing Counsel, Environment & Forest Department for all the respondents.

2. The case projected on behalf of the petitioner in this writ petition, in brief, is that in a competitive bidding process initiated vide a Short Tender Notice dated 12.01.2021 for a work viz. '50 Ha Plantation Afforestation' at Karichapori ['the Contract-Work', for short], the petitioner emerged as the successful bidder and accordingly, the petitioner was awarded the Contract-Work vide a Work Order no. B/Majuli/G-28/2021/329 dated 03.06.2021. As per the Work Order, the period of contract is 5 [five] years from the date of issue of the confirmation order and the contract value is Rs. 1,18,79,114.45. At the time of issuance of the Work Order, the petitioner was asked to do plantation in an area, measuring 50.0 hectares at Karichapori. An inspection was carried out by the respondent authorities in the Environment & Forest Department in April, 2022 and during such inspection, the respondent authorities noticed erosion in some parts of the boundary of the plantation area by River Brahmaputra. By a Communication bearing no. B/Majuli/G-28/2022/1054-55 dated 29.10.2022, the petitioner was asked to reduce the area of plantation from 50.00 hectares to 44.55 hectares to save the plantation from further erosion.

3. The petitioner has averred that he had deposited the Earnest Money Deposit [EMD] and a Bank Guarantee on the premise that the plantation area would be about 50.0 hectares. As at a later point of time, the petitioner has been asked to reduce the plantation area, the petitioner submitted a representation before the respondent no. 4 on 07.07.2023 seeking *inter alia*

proportionate adjustment of the Earnest Money Deposit [EMD] and the Bank Guarantee on the basis of the reduced area of plantation. As the representation preferred before the respondent no. 4 on 07.07.2023 has failed to evoke any response, the petitioner has approached this Court by the instant writ petition with the prayer for a direction to the respondent authorities in the Environment & Forest Department to consider the representation dated 07.07.2023.

4. Responding to the submissions of the learned counsel for the petitioner, Mr. Gogoi, learned Standing Counsel, Environment & Forest Department has submitted that to consider the prayer, as mentioned in the representation dated 07.07.2023, the respondent no. 2 will be the appropriate authority. Mr. Gogoi has submitted that since the petitioner has not filed any representation before the respondent no. 2 till date, the petitioner should prefer such a representation before the respondent no. 2 for consideration. He has, thus, submitted that the writ petition can be disposed of at this stage by directing the petitioner to prefer a representation before the respondent no. 2 and in the event such a representation is filed, by directing the respondent no. 2 to consider and dispose of the same in accordance with law within a stipulated period of time.

5. Ms. Borah, learned counsel for the petitioner has submitted that the petitioner would prefer appropriate representation before the respondent no. 2 within 2 [two] weeks time.

6. Having regard to the submissions made by the learned counsel for the parties and the broad consensus arrived at in the afore-stated manner, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of allowing the petitioner to file a representation before the respondent no. 2 with the prayers, mentioned above, within a period of 2 [two] weeks from today and if such a representation is filed, by directing the respondent no. 2 to take the representation on board for consideration and after due consideration, dispose of the same on merits and in accordance with law by passing a reasoned order within a period of 4 [four] weeks from the date of such receipt. It is accordingly ordered. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant