

GAHC010236682022



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

Case No. : WP(C)/7500/2022

BEDANANDA DAS
S/O- LATE TEPU RAM DAS, R/O- VILL.- NATUNGAON, P.O.
BISWANATHGHAT, P.S. BISWANATH CHARIALI, DIST. BISWANATH, ASSAM,
PIN- 784177.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF ASSAM, BLOCK-C,
3RD FLOOR, ASSAM SACHIVALAYA, DISPUR, GUWAHATI, KAMRUP(M),
ASSAM, PIN- 781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM -CUM- THE MEMBER
SECRETARY
SEIAA
ASSAM
DEPT. OF ENVIRONMENT AND FOREST
H-BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781006.

3:THE SECRETARY
DEPT. OF MINES AND MINERALS
GOVT. OF ASSAM
ASSAM SECRETARIAT BLOCK-A
1ST FLOOR
DISPUR

GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781006.

4:THE CHIARMAN
STATE LEVEL ENVIRONMENT IMPACT AUTHORITY
ASSAM
BAMUNIMADAM
GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781021.

5:THE MEMBER SECRETARY
SEIAA
ASSAM
BAMUNIMADAM
GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781021.

6:THE DIRECTOR
DIRECTORATE OF GEOLOGY AND MINING

KAHILIPARA
GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781019.

7:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM
DEPARTMENT OF ENVIRONMENT AND FORESTS
GOVERNMENT OF ASSAM
ARANYA BHAWAN
PANJABRI
GUWAHATI
KAMRUP(M)
ASSAM
PIN- 781037.

8:THE DIVISIONAL FOREST OFFICER
SONITPUR
EAST DIVISION
BISWANATH CHARALI

DIST. BISWANATH
ASSAM
PIN- 784176.

9:THE DEPUTY COMMISSIONER
BISWANATH
BISWANATH CHARIALI
ASSAM
PIN- 784176.

10:THE DEPUTY COMMISSIONER
SONITPUR
TEZPUR
DIST. SONITPUR
ASSAM
PIN- 784001

Advocate for the Petitioner : MR D C K HAZARIKA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27-01-2023

Heard Mr. D.C.K. Hazarika, learned counsel for the petitioner; Mr. K. Gogoi learned Additional Senior Government Advocate, Assam for the respondent nos. 1, 3, 4, 5, 6, 9 & 10; and Mr. R.R. Gogoi, learned Standing Counsel, Forest Department for the respondent nos. 2, 7 & 8.

2. The petitioner was settled with the Borgang River Mining Contract Area for Sand and Gravel no. 4 located in the Borgang River Bed near Village Kuhiarbar for a period of 7 years vide a Letter of Intent [LoI] dated 03.03.2014 under the provisions of Assam Minor Mineral Concession Rules, 2013 [‘the Concession Rules’, for short]. The mining permit was granted after fulfillment of number of conditions, including Environmental Clearance Certificate which is to

be issued by the competent authority.

3. It is the case of the petitioner that certain time was taken for such Environmental Clearance Certificate for which the petitioner was unable to extract effectively for the period for which the lease was granted. It is also the submission of the petitioner that the pandemic situation which intervened in the meantime, had also adversely affected the operation of the lease and therefore, a joint application along with similarly situated concession permit holders, had been submitted on 08.02.2021 which is yet to be acted upon. Accordingly, the instant writ petition has been filed with a direction to the authorities to duly consider the application for extension/renewal.

4. Mr. Gogoi, learned Standing Counsel, Forest Department has submitted that though law has prescribed that lease/mining contract can be extended, there are number of requirements under the Rules in question. By drawing the attention of this Court to Rule 19 under Chapter-4, the learned Standing Counsel, Forest Department has submitted that apart from the prescribed fee, there are a number of other requirements which, apparently, have not been fulfilled by the petitioner. Mr. Gogoi, learned Standing Counsel, Forest Department has submitted that a bare perusal of the application would show that it is a mere communication which would not serve the purpose for a fair consideration as an application of the present nature is not even entertainable. The learned Standing Counsel, Forest Department has, however, fairly submitted that though renewal has to be prayed within a period of 18 months prior to the date of expiry, which is already over, a direction may be issued for consideration of that aspect.

5. Mr. Hazarika, learned counsel for the petitioner has submitted that he may be given liberty to submit individual application in accordance with the

Concession Rules which would be accompanied by all the requirements, including the statutory fee. Mr. Hazarika, learned counsel for the petitioner has further referred to an order dated 02.12.2022 passed in writ petition, W.P.[C] no. 7708/2022 wherein the petitioner was similarly situated like the present petitioner.

6. I have gone through the contents of the order dated 02.12.2022 [supra].

7. In view of the broad consensus arrived at in the Bar, the instant writ petition is disposed of by permitting the petitioner to file an application for renewal. Such application, however, is to meet all the requirements under the Rules, more specifically, the requirements mentioned in the Rule 19 of the Rules. The application, as permitted, may be submitted within a period of 1 month from today. The authorities, however, shall not reject the application on the ground that the same has not been submitted prior to 18 months of the date of expiry and the same shall be considered on its own merits. This, however, shall not act as a precedent. The competent authority being the Principal Chief Conservator of Forest & Head of Forest Force, Assam, the application be submitted before the said authority.

The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant