

GAHC010032672023



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

Case No. : WP(C)/913/2023

RAJU CHOUDHURY
S/O- LATE NURUL HOQUE CHOUDHURY,
R/O- HAILAKANDI TOWN WARD NO. 12,
P.S. AND DIST- HAILAKANDI (ASSAM).

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SPECIAL SECRETARY TO TE
GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE SECRETARY TO THE GOVT. OF ASSAM
P.W.D.
DISPUR
GUWAHATI-06.

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (ROAD)
CHANDMARI
GUWAHATI-03.

4:THE EXECUTIVE ENGINEER
HAILAKANDI DISTRICT RURAL ROAD DIVISION
HAILAKANDI
PIN- 788151.

5:THE ASSISTANT EXECUTIVE ENGINEER
PWD
KATLICHERRA TERRITORIAL ROAD SUB-DIVISION

KATLICHERRA
HAILAKANDI

ASSAM
PIN- 788163.

6:THE DIVISIONAL FOREST OFFICER
HAILAKANDI DIVISION
HAILAKANDI
PIN- 788151.

7:THE STATE OF MIZORAM
REPRESENTED BY THE PRINCIPAL CHIEF CONSERVATOR TO THE GOVT
OF MIZORAM

DEPARTMENT OF ENVIRONMENT FOREST AND CLIMATE CHANGE
AIZAWL 796001

8:THE DIVISIONAL FOREST OFFICER
KOLASIB FOREST DIVISION

KOLASIB
MIZORAM 79608

Advocate for the Petitioner : MR. A H M R CHOUDHURY,

Advocate for the Respondent : SC, PWD, MRS. P B BHATTACHARJEE,SC, FOREST,GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

22.08.2024

1. Heard Mr. A.H.M.R. Choudhury, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned counsel for the respondent no.6. Mr. B. Gogoi, learned counsel appears for the respondent nos.1 to 5, while Mr. A. Barua, learned counsel appears on behalf of Ms. P. Bhattacharjee, learned Additional Advocate General, Mizoram for the respondent nos.7 & 8.

2. The petitioner has claimed that he had successfully executed a contract work : 'Construction & Maintenance of Rural Roads under Pradhan Mantri Gram Sadak Yojana-II, 2019-2020, Batch-1 in Hailakandi District, Package no. AS-09-79' ['the contract work', for short]. After successfully completing the subject-work, the petitioner submitted his final bills. The petitioner has contended that save and except an amount of Rs.30,00,000/-, the other part of the final bills for the contract work has already been released in favour of the petitioner. However, Rs.30,00,000/- has been retained by the respondent authorities on the pretext of forest royalty.

3. Mr. A.H.M.R. Choudhury, learned counsel for the petitioner has further referred to the Communication dated 24.10.2022 [Annexure-12] of the respondent no. 4 to submit that the matter of release of the said amount of Rs.30,00,000/- is under consideration of the respondent authorities.

4. On the other hand, the Forest Department had made a claim against the petitioner for payment of forest royalty amounting to Rs.30,00,000/- and money kept for defects rectification costs.

5. As the petitioner's case was that the minor mineral had been brought into Assam from the State of Mizoram and that the forest royalty for the same had been paid in the office of the Range Officer, Bairabi, which is under the office of the DFO, Kolasib, this Court had made the Forest Department, Government of Mizoram as a party respondent and asked them to clarify, as to whether the petitioner had paid forest royalty to the Government of Mizoram amounting to

Rs.6,73,000/- which had been allegedly recorded in Book No.5100, Receipt No. 001 dated 14.04.2021 issued by the Officer-in-Charge, Bairabi Range/Depot Range Officer, Bairabi Forest Range. The Reference No. of the said receipt was F.W.O. No. C.E/PMGSY/57/2019-20/4 dated 17.03.2020.

6. Mr. B. Gogoi, learned counsel for the respondent nos.1 to 5 submits that out of Rs.30,00,000/-, Rs.3,04,800/- had been kept for rectification of works for the defect notice period. However, as the defect notice period is over and all the works that required rectification has been rectified, the entire Rs.30,00,000/- can be released to the petitioner, as the petitioner has paid the forest royalty to the State of Mizoram.

7. I have heard the learned counsels for the parties.

8. The affidavit filed on behalf of the respondent nos.7 & 8, i.e. the State of Mizoram and the Divisional Forest Officer, Kolasib Forest Division is to the effect that the writ petitioner has paid Rs.6,73,000/- only on account of royalty for extraction of 10,400 m³ of minor minerals and accordingly, the Divisional Forest Officer, Kolasib Forest Division, Kolasib, Mizoram, vide letter dated 07.06.2024 communicated the same to the Conservator of Forest (FC & Legal), Aizawl.

9. Due to the admission made by the Forest Department, Government of Mizoram, it is clear that the petitioner has paid forest royalty of Rs.6,73,000/- for extraction of 10,400 m³ of minor minerals. In view of the fact that the forest royalty has been paid to the State of Mizoram, nothing needs to be adjudicated

any further in this case.

10. In view of the stand taken by the State of Mizoram that forest royalty of Rs.6,73,000/- has been paid and as all the defects have already been rectified, the respondents are directed to release Rs.30,00,000/- held up by them to the petitioner, within a period of 4 (four) weeks from the date of receipt of a certified copy of this order.

11. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant