

GAHC010059252024



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

Case No. : WP(C)/1617/2024

SUJIT SARKAR
S/O- LATE SUDHIR SARKAR, R/O- VILLAGE AND P.O- -KHAIRABARI, DIST-
BARPETA, ASSAM

VERSUS

THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY ,ASSAM,
HAVING ITS OFFICE AT BAMUNIMADAM, GUWAHATI, PIN--781021,
REP. BY ITS MEMBER SECRETARY

2:THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY TO THE MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
GOVT. OF INDIA

HAVING ITS OFFICE AT INDIRA PARYAVARAN BHAVAN
JORBAGH ROAD
NEW DELHI- 110003.

3:THE STATE OF ASSAM
REPRESENTED BY
FOREST AND ENVIRONMENT DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-6.

4:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037
ASSAM.

5:DIVISIONAL FOREST OFFICER
NORTH KAMRUP DIVISION
RANGIA
ASSAM

6:RANGE OFFICER
BARPETA
ROAD RANGE
BARPETA
ASSA

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

24.04.2024

1. Heard Mr. M. Sarma, learned counsel for the petitioner, who submits that the petitioner has been settled with the NKD-B-2 Safakama Mining Contract area for extraction of sand and stone for 7 years till 31.10.2025. As per the Agreement dated 29.10.2018, executed between the petitioner and the Government of Assam, the petitioner was to extract 1000 cum of sand and 2500 cum of stone annually. To enable the petitioner to extract sand and stone, Environmental Clearance Certificate was required to be issued by the respondent No.1. As such, the respondent No.1 issued Environmental Clearance Certificate vide letter No. SEIAA.876/2018/EC/13 dated 12.10.2018, for a period of 5 years from 12.10.2018, which was extendable by another 2 years, subject to availability of materials.

2. As the 5 years Environmental Clearance Certificate given vide the above letter dated 12.10.2018 had expired, the petitioner applied for extension of the Environmental Clearance Certificate, which was given vide letter No. SEIAA.875/2018/EC/29 dated 03.01.2024, for a further period of 6 months.

3. The petitioner's counsel submits that as the petitioner is to extract 1000 cum of sand along with 2500 cum of sand every year, there was no justification for limiting the extension of the Environmental Clearance Certificate to only 6 months. He submits that unless the extension period is given for the whole 2 year remaining period of settlement of the mining contract area, precious time is lost in applying for further extension. He accordingly prays that a direction should be issued to the respondent authorities to extend the Environmental Clearance for the remaining period of 1 ½ years, as has been given to other tenderers, as reflected in Annexure-I of the writ petition, which pertains to mining of a similar amount of sand and stone to be extracted by the tenderer therein.

4. Mr. C.K.S. Baruah, learned CGC submits that as per instructions received by him, the petitioner can always apply for extension of the Environmental Clearance Certificate, after completion of the 6 months extension period given to him. He submits that the application should have to be made as per the relevant procedure, which will entail review of his application for further extension.

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

6. The settlement of the NKD-B-2 Safakama Mining Contract area for extraction of sand and stone for 7 years has been made till 31.10.2025. The amount of sand and stone to be extracted every year has been reflected in the documents annexed to the writ petition, showing that the petitioner is to extract 1000 cum of sand and 2500 cum of stone every year. The respondent No.1 had initially given the petitioner Environmental Clearance Certificate for 5 years and on expiry of the same, has given extension of the Environmental Clearance for 6 months. It is not understood as to why the petitioner has not been considered for and given Environmental Clearance Certificate for the remaining period of 2 years in total, instead of giving Environmental Clearance Certificate for only 6 months, inasmuch as, the petitioner has been settled with the mining contract till 31.10.2025.

7. It is also seen that the respondent No.1 had given extension of the Environmental Clearance Certificate for 2 years to one Sri Himangshu Nath, for extraction of the same amount of sand and stone, which had been also given to the petitioner. The extension of 2 years Environmental Clearance Certificate had been given vide letter No. SEIAA.849/2017/EC/1968 dated 14.02.2023.

8. On considering the above facts, this Court does not find any justification for limiting the extension of the Environmental Clearance for only 6 months, while the settlement of the mining contract area with the petitioner remains valid till 31.10.2025. Accordingly, this Court is of the view that the respondent No.1 should consider extension of the Environmental Clearance for the remaining 1 ½ years, provided the petitioner submits his application for extension of the same within a period of 2(two) weeks from today. The

respondent No.1 shall thereafter take a decision on the petitioner's representation for extension of the Environmental Clearance till 31.10.2025, within a further period of 1 (one) month. The decision taken should be communicated to the petitioner.

9. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant