

GAHC010101142023



undefined

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

Case No. : WP(C)/2735/2023

SABITRI DUTTA
W/O- LATE JOGENDRA NATH DUTTA,
R/O- GANESH MANDIR PATH, HOUSE NO. 1,
BYE LANE NO. 1, JAYANAGAR CHARIALI,
BELTOLA, P.O.- KHANAPARA, P.S.- DISPUR,
GUWAHATI- 781022, DISTRICT- KAMRUP METRO.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI- 06, ASSAM.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ARANYA BHAWAN
PANJABARI
GUWAHATI

PIN-781037
ASSAM.

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HOUSING AND URBAN AFFAIRS DEPARTMENT

DISPUR
GUWAHATI-06
ASSAM.

4:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
MINES AND MINERALS DEPARTMENT
DISPUR
GUWAHATI- 06
ASSAM.

5:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
MINES AND MINERALS DEPARTMENT
DISPUR
GUWAHATI-06
ASSAM.

6:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI- 781001

Advocate for the Petitioner : MR. D BARUAH, MS. T. PAIT

Advocate for the Respondent : SC, FOREST, SC, GMC,GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 04-12-2024

Heard Mr. D. Baruah, learned counsel for the petitioner. Also heard Mr. I. Kalita, learned counsel for the respondents No.1 and 2; Mr. M. Chetia, learned counsel appearing for the respondents No.3, 4 and 5 and Ms. A. Borthakur, learned counsel appearing on behalf of Mr. P. Nayak, learned counsel for the respondent No.6.

Challenge made in this petition is to the communication No.PEM.17-1336/183 dated 02.03.2023 passed by the Joint Secretary to the Govt. of Assam, Mines and Minerals Department, whereby pursuant to the meeting held on 07.12.2022, no changes be effected in the notification dated 7th October, 2021, and the notification will be applicable in realization of Forest Royalties in Government Departments/Urban Local Bodies for both Government and Private agencies until further orders.

It is the contention of the petitioner that the impugned notification dated 02.03.2023 has enlarged the scope of Assam Mineral Concession (Amendment) Rules, 2021. Vide notification dated 07.10.2021, certain amendments have been brought to the Assam Mining Minerals Concession Rules, 2013 prescribing certain specific norms for payment of forest royalty by the Government departments and its agencies and other local bodies while consuming any forest produce in respect of any contractual activity carried out by such government through its contractors. However, while giving effect to the said provision of the amendment Rules vide the said notification dated 07.10.2021, the respondents have included the private agencies including the private individuals in the same category which is completely outside the purview of the Rules and thereby has compelled the petitioner to pay the forest royalty while applying for building permission/NOC.

It is stated at the Bar that the Coordinate Bench of this Court has already set aside the said impugned notification issued by the Mines and Minerals Department, Govt. of Assam. Learned counsel for the parties have fairly submits that the present case is covered by the judgment and order dated 24.09.2024 in WP(C) 4085/2024, therefore, the present petitioners are entitled to be provided with similar relief.

Having considered the submissions made by the learned counsel for both the parties and on perusal of the judgment and order dated 24.09.2024 passed in WP(C) 4085/2024, I am of the view that the case of the present petitioner is covered by the aforesaid judgment and order.

Accordingly, it is directed that the GMC/GMDA shall not insist upon payment of royalty upon the petitioner as a condition for granting permission to construct or carrying out construction pursuant to the permission so granted.

With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant