

GAHC010119642023



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

Case No. : WP(C)/3233/2023

SHYAMANTA MECH
S/O LATE GHANA KANTA MECH, R/O VILL- NABIL, P.O.-TOWBHANGA, P.S.-
JAMUGURIHAT, DIST- SONITPUR (ASSAM), PIN-784182

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 CHAIRMAN
STATE LEVEL ENVIRONMENT IMPACT AUTHORITY
ASSAM
BAMUNIMAIDAM
GUWAHATI
KAMRUP (M)
ASSAM
PIN-781021

5:THE MEMBER SECRETARY
SEIAA
ASSAM
BAMUNIMAIDAM
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
PANJABARI
GUWAHATI
KAMRUP (M)
ASSAM
PIN-781037

8:THE DIVISIONAL FOREST OFFICER
SONITPUR EAST DIVISION
BISWANATH CHARIALI
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-78400

Advocate for the Petitioner : MR D C K HAZARIKA, J BEZBARUAH,MS J KALITA

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

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

11.11.2024

Heard Ms. J. Bezbaruah, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned Standing Counsel, Forest Department and Mr. G. Bokalial, learned Jr. Government Advocate for the respondent Nos. 3-6, 9 & 10.

2. Aggrieved by the rejection of the petitioner's application for renewal of the mining contract vide speaking order dated 14.03.2023, the petitioner has filed the present writ petition. The petitioner's case is that the petitioner had been settled with the mining contract for Hatinga Sand, Gravel & Boulder Mahal for the period from 29.10.2015 to 28.10.2022 pursuant to an NIT. Due to the alleged loss suffered by the petitioner during the Covid-19 pandemic where mining work could not be undertaken, the petitioner along with similarly

situated mining contract holders had submitted a joint application dated 08.02.2021, for renewal of their contract period. The same not being acted upon, the petitioner filed WP(C) No.7800/2022, wherein the petitioner's counsel prayed that the petitioner may be given the liberty to submit an individual application, in accordance with Rule 19 of the Assam Minor Mineral Concession Rules, 2013 (hereinafter referred to as the '2013 Rules'), including the statutory fee payable.

3. This Court thereafter disposed of WP(C) 7800/2022, vide order dated 27.01.2023, by permitting the petitioner to file an application for renewal. This Court further held that the application to be submitted should meet all the requirements of Rule 19 of the 2013 Rules, except the time limit for submitting the application. Thereafter, the authorities should decide the application on its own merit and the same should not be rejected on the ground that it had not been submitted within time, i.e., it had not been submitted prior to 18 months of the date of expiry of the settlement period.

4. Subsequent to the above order dated 27.01.2023 passed in WP(C) 7800/2022, the petitioner submitted an application for renewal of the settlement period, vide letter dated 06.02.2023. The same was rejected by the respondent No.7 by Speaking Order dated 14.03.2023, on the ground that the petitioner had not submitted his application in the prescribed Form MC-2 along with different details required therein, besides not submitting the non-refundable renewal fee of Rs.1 lakh, as prescribed in Rule 19 of the 2013 Rules.

5. The petitioner's counsel submits that on the date the petitioner went to

the office of the respondent No.7, for being provided with a copy of the renewal application, the same was not provided to the petitioner, due to non-availability of the same. Accordingly, the petitioner had to submit a written application on plain paper for renewal on 06.02.2023.

6. The petitioner's counsel submits that the respondent No.7 should not have rejected the petitioner's application only on the ground that the same had not been submitted in Form MC-2, as the said defect was curable.

7. Mr. R.R. Gogoi, learned Standing Counsel, Forest Department, on the other hand, submits that besides the petitioner not having submitted his application for renewal in terms of Form MC-2, which would be in terms of Rule 19(1) of the 2013 Rules, the petitioner has not made a mention of the 23 specific informations required in terms of the Form MC-2. He further submits that in terms of Rule 19(3) of the 2013 Rules, every application for renewal of a mining contract has to be accompanied with a non-refundable fee, which is subject to a minimum of Rs.1 lakh. However, the petitioner has not submitted any fee along with the application for renewal, which was a requirement of the law. He accordingly submits that there is no infirmity with the impugned speaking order, which has rejected the petitioner's application for renewal, due to the same not being submitted in terms of Rule 19, i.e., as it is not in terms of Form MC-2 and due to non-submission of the non-refundable fee.

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

9. WP(C) No.7800/2022 had been disposed of by order dated 27.01.2023, on

the prayer made by the petitioner's counsel, that the petitioner may be given liberty to submit an individual application in accordance with the Rules, including payment of the statutory fee. This Court had accordingly allowed the same by specifically mentioning that the petitioner's application should meet the requirements mentioned in Rule 19 of the 2013 Rules, except with regard to the period of limitation prescribed in the Rules.

10. The operative portion of the order dated 27.01.2023 passed in WP(C) No.7800/2022, which is at para 5 to 7, is reproduced hereinbelow as follows:-

“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.”

11. The petitioner has however submitted the application in a piece of paper, which is not in consonance with Form MC-2, which required a minimum of 23 specific information to be specified, in terms of Rule 19(1) of the 2013 Rules. Further, the petitioner has not submitted the minimum fee of Rs.1 lakh, as prescribed in Rule 19(3) of the 2013 Rules.

12. Assuming that the petitioner's submission that the Form MC-2 was not available at the relevant point of time is true, the petitioner should have given the required information in his application form, with regard to the specific information to be provided in terms of the Form MC-2. However, the petitioner has not provided the said information as required in Form MC-2. In view of the fact that this Court had specifically directed that the petitioner's application should meet all the requirements under Rule 19 of the 2013 Rules and as the same has not been met by the petitioner, this Court does not find any infirmity with the Speaking Order dated 14.03.2023 passed by the respondent No.7.

13. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant