

GAHC010130162017



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

Case No. : WP(C)/3170/2017

ASIB ALI
S/O. LT. HASIM ALI, R/O. VILL. DEKARBARI, P.O. AMGURI, DIST. BARPETA,
ASSAM.

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-06.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
ASSAM

REHABARI
GUWAHATI-8.

3:THE ADDL. PRINCIPAL CHIEF CONSERVATOR OF FORESTS T

LOWER ASSAM ZONE
GUWAHATI-01.

4:THE CHIEF CONSERVATOR OF FORESTS

CENTRAL ASSAM
GUWAHATI-01.

5:THE DY. COMMISSIONER-CUM-THE DISTRICT MAGISTRATE

BARPETA
DIST. BARPETA
ASSAM.

6:THE DIVISIONAL FOREST OFFICER

NORTH KAMRUP DIVISION
RANGIA
DIST. KAMRUP
ASSAM.

7:THE FOREST RANGE OFFICER

BARPETA FOREST RANGE
BARPETA ROAD
ASSAM
PIN-781312

Advocate for the Petitioner : MR.S HOQUE, MS.M DEVI,MR A GONI,MR. G CHOUDHURY

Advocate for the Respondent : GA, ASSAM, ,,

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

26-11-2024

Heard Mr. S. Hoque, learned counsel for the petitioner. Also heard Mr. B. Goswami, learned Government Advocate, Assam.

2] This writ petition is filed by the petitioner praying for a direction to the respondent no.5 as to why the representation dated 12.12.2016 submitted by the petitioner before the respondent no.5 seeking compensation for damage caused by the flood over the mining work NKD-B-4 Khudnabari Pathar area was not disposed of.

3] The petitioner was a mining Contractor of NKD-B-4 Khudnabari Pathar and

the said mining area was allotted in his name in the year 2016 for 7 years i.e. w.e.f 01.03.2016. From the day of issuance of the contract, he had been paying the requisite installment against the said mining area. However, in the last part of May, 2016 there was a flood in the mining area because of which he suffered loss as all the materials which were gathered in the mining area was washed away due to the flood. According to the petitioner, his approximate losses suffered is around Rs.8,00,000/- (Rupees Eight lakhs only). Subsequently, when the flood was over, the respondent no.5 opened the mining areas of other similarly situated person but when the petitioner came to work in his area, he was not allowed to work in his mining area. It is claimed that since the petitioner was not even permitted to work in the said area, he, therefore, filed a representation dated 30.08.2016 before the respondent no.5. He was permitted to work only on 17.09.2016 by the respondent no.5 and for this delay he sustained heavy loss. Thereafter, on 12.12.2016 the petitioner submitted a representation before the respondent no.5 claiming the compensation for the damage caused by flood over the mining appear. However, the said representation dated 12.12.2016 is still pending before the concerned Authority and finding no way, the petitioner has approached this Court. This matter is pending for disposal before this Court.

4] Notice in this case was issued far back as on 29.05.2017 and the

respondents Department has also not responded by filing any affidavit.

5] Today, when the matter is listed before the Court, learned counsel for the petitioner prays for a direction to the respondent no.5 for disposal of the said representation.

6] Upon careful perusal of the pleadings available before the Court as well as the representation dated 12.12.2016 enclosed to the writ petition, it is seen that the said representation pertains to the mining area allotted to the petitioner in the year 2016 for 7 years.

7] Accordingly, this Court does not consider it prudent to issue any direction to the respondent no.5 for disposal of the representation dated 12.12.2016 seeking compensation. In any event of the matter, the contract agreement between the petitioner for mining areas was executed by and between the petitioner and the Forest Department, more particularly, the Divisional Forest Officer, North Karmup Division, Rangia. The District Magistrate, Barpeta by its order dated 31.05.2016 had only passed an order prohibiting extraction of sand gravel, earth cutting, silt etc from Barpeta till the flood season is over and because of which the petitioner claims to have suffered losses. There is no representation to show that the petitioner has addressed to the Forest Department for renewal of the contract, if any, in order to recover his losses

claims to have been suffered by him.

8] Under such circumstances, this Court is not inclined to pass any order directing the District Magistrate, Barpeta to pass any order on the representation filed on 12.12.2016. However, if any order on the said representation has already been filed during the pendency of the writ petition, a copy thereof shall be served to the petitioner. The disposal of the writ petition however, shall not be a bar to the petitioner to file necessary application before the Forest Department by highlighting any losses that he may have suffered and for which the Department may consider his case for his claim for due compensation as per the provisions of law.

9] Writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant