

GAHC010149742024



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

Case No. : WP(C)/3826/2024

UTTAM KARMAKAR
SON OF LATE MOHAN BASHI KARMAKAR,
R/O- VILLAGE- BARUAH BAZAR,
P.O.- HOWLY, DIST.- BARPETA, ASSAM,
PIN- 781316.

VERSUS

THE STATE OF ASSAM AND 8 ORS
NOTICE TROUGH THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM,
FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI- 6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FOREST AND ENVIRONMENT DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI- 781037.

4:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS
LOWER ASSAM ZONE
GUWAHATI- 781001.

5:THE CONSERVATOR OF FORESTS
CENTRAL ASSAM CIRCLE

GUWAHATI- 781029.

6:THE DIVSIONAL FOREST OFFICER
NORTH KAMRUP DIVISION
RANGIA
DIST.- KAMRUP
ASSAM

PIN- 781354.

7:THE FOREST RANGE OFFICER
BARPETA ROAD FOREST RANGE
BARPETA ROAD
DIST.- BARPETA

ASSAM
PIN- 781315.

8:THE DISTRICT COMMISSIONER
BARPETA DISTRICT
BARPETA
ASSAM
PIN- 781301.

9:THE SUPERINTENDENT OF POLICE
BARPETA DISTRICT
BARPETA
ASSAM
PIN- 781301

Advocate for the Petitioner : MR. U K DAS, H THAKURIYA,MS. B D SARMAH

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

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

02.08.2024

Heard Mr. U. K. Das, learned counsel for the petitioner, who submits that the petitioner was settled with the mining rights of NKD-B-18-Salmara-

Joypurghat Mining Contract Area, for seven years at the bid price of Rs. 2,39,11,000/-. The petitioner was issued a settlement order dated 18.05.2023 by the Principal Chief Conservator of Forest and Head of Forest, Government of Assam in this regard. The petitioner started mining of the minor minerals in the area settled with him and also deposited 25% of the annual contract money, as security deposit.

2. The petitioner's counsel submits that the petitioner is aggrieved by the respondent authorities allowing some persons/firms to extract minor minerals in the area, near to the mining area settled with the petitioner. He submits that the mining of minor minerals by some persons in the area near the petitioner's mining area affects the business of the petitioner. He further submits that the other persons, who are mining minor minerals near the settled area of the petitioner, have been mining the same without being given any permits by the respondent authorities. He submits that mining rights can be given to persons only in terms of Rule 23(2) and 32 of the Assam Minor Mineral Concession Rules, 2013.

3. The petitioner's counsel thus prays that a direction should be issued to the respondents, not to issue work permits or patta permits in favour of any persons/firms/companies, for extracting minor minerals, within an area of at least a 3 KM radius from the mining area settled with the petitioner.

4. Mr. R. R. Gogoi, learned counsel for the Forest Department and Mr. S. R. Baruah, learned counsel for the respondent Nos. 8 & 9 submit that the petitioner has not been able to show as to what right of the petitioner has been violated, just because some persons are allegedly mining land near the mining

area of the petitioner.

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

6. The submission made by the petitioner's counsel clearly goes to show that the mining rights given to the petitioner for NKD-B-18-Salmara-Joypurghat Mining Contract Area has not been encroached upon by any person. Further, the petitioner has not been able to show as to who are the persons, who are mining the land near the land of the petitioner and as to whether they had been illegally mining the said area.

7. The above being said, the prayer of the petitioner in the writ petition shows that the petitioner does not want the respondent authorities to issue any work permit or patta permit for mining purposes to any persons/firms/companies for extracting minor minerals, within an area of at least 3 km radius from the area settled with the petitioner for mining. This Court does not find any reason to allow the prayer made by the writ petitioner, inasmuch as, the petitioner cannot have any right in respect of land beyond the contract mining area settled with him. Further, this Court cannot go on a roving inquiry, as to whether un-named and unknown persons are actually mining land with the permission of the respondents, which is near the petitioner's land and who are not encroaching upon the land settled with the petitioner for mining purposes.

8. In the case of ***Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and Others***, reported in ***(2013) 4 SCC 465***, the Supreme Court has held that only those persons, whose enforceable rights have been

violated, can approach a Writ Court under Article 226 of the Constitution for enforcement of their rights.

9. In view of the reasons stated above, this Court finds that the petitioner cannot be said to be an aggrieved person, as no enforceable right of his has been violated and there is nothing to show that the respondents are not doing their duty. Thus, he has no locus standi to file this case. The writ petition, being not maintainable, is dismissed.

JUDGE

Comparing Assistant