

GAHC010168112024



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

Case No. : WP(C)/4229/2024

PRASANTA RAJKHOWA
S/O- SADA RAJKHOWA,
VILL. AND P.O. KUMAR KOIBATYA GAON,
GARMUR, P.S.- JORHAT, DISTRICT- JORHAT,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI-37.

3:THE CONSERVATOR OF FORESTS
EASTERN ASSAM CIRCLE
JORHAT.

4:THE DIVISIONAL FOREST OFFICER
SIVASAGAR DIVISION(T)
SIVASAGAR

Advocate for the Petitioner : MR. D BARUAH, MR. P K BORDOLOI

Advocate for the Respondent : SC, FOREST,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 28.08.2024

Heard Mr. D. Baruah, learned counsel for the petitioner, who submits that the petitioner was issued letter of intent dated 11.05.2023, to extract minor minerals (sand) from the Jhanji River Sand Mahal, pursuant to the short Notice dated 04.02.2023 and long e-Auction Notice dated 08.02.2023. He submits that the settlement of the sand mahal was for two years. However, though the petitioner has made all the required deposits and obtained No Objection Certificates from various Departments, the respondents have not allowed the petitioner to operate the sand mahal till date.

2. The petitioner's counsel submits that the petitioner has not obtained environment clearance from the State Environment Impact Assessment Authority, inasmuch as the same has to be applied for by the Forest Department from the State Authority.

3. Mr. R. R. Gogoi, learned counsel appearing for the Forest Department, on the other hand, submits that the environment clearance has to be obtained by the petitioner and as the petitioner has not obtained the same, that appears to be the reason why the petitioner has not been allowed to operate the sand mahal till date.

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

5. The content of the long e-Auction Notice dated 08.02.2023 provides that environment clearance is to be obtained by the successful bidder/lessee from the State Environment Impact Assessment Authority, Government of Assam, as

per the instructions of the Ministry of Environment, Forest & Climate Change, Government of India, issued vide SO 1533(E) dated 14.09.2006 and its subsequent amendments. As the petitioner has not been able to show that he has obtained the environment clearance, as required by the e-Auction Notice, this Court does not find any ground to exercise its discretion in the present case at this stage.

6. The petitioner is accordingly given the liberty to apply for environment clearance from the State Environment Impact Assessment Authority, Government of Assam, inasmuch as, the letter of intent dated 11.05.2023 has not been cancelled till date, as per the knowledge of the petitioner. After obtaining the environment clearance, the petitioner may approach the Forest Department to allow him to operate the sand mahal.

7. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant