

GAHC010223122018



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

Case No. : WP(C)/6984/2018

TANGKESWAR SONOWAL
S/O SRI SUNESWAR SONOWAL
R/O BHEKULAJAN, BALIGHAT
P.O. AND P.S. TENGA KHAT
PIN CODE- 786103
DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF ENVIRONMENT AND FOREST, DISPUR, GUWAHATI -06,
ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS

ASSAM
REHABARI
GUWAHATI - 781008
ASSAM.

3:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS (T)

UPPER ASSAM ZONE

KACHARIGHAT
GUWAHATI- 781001
ASSAM.

4:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS (P)

OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND

HEAD OF FORESTS FORCES
ASSAM
REHABARI
GUWAHATI- 781008
ASSAM.

5:THE CHIEF CONSERVATOR OF FORESTS (T)

UPPER ASSAM
ZONE
KACHARIGHAT
GUWAHATI - 781001
ASSAM.

6:THE CONSERVATOR OF FORESTS

EASTERN ASSAM CIRCLE

JORHAT

NEAR CIRCUIT HOUSE
JORHAT
PIN- 785001.

7:THE DIVISIONAL FOREST OFFICER

DIBRUGARH DIVISION
NEAR DC COURT

DIBRUGARH- 786003.

8:DISTRICT DEVELOPMENT CUM MEMBER SECRETARY
DMF TRUST
DIBRUGARH
PIN - 786003

For the Petitioner(s)	: Mr. D. Das, Sr. Advocate
	: Mr. S. Khound, Advocate

For the Respondent(s)	: Mr. R. R. Gogoi, SC, Forest
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**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 31.08.2024

Heard Mr. D Das the learned senior counsel assisted by Mr. S Khound, the learned counsel appearing on behalf of the petitioner and Mr. R. R. Gogoi, the learned counsel appears on behalf of the Forest Department, Government of Assam.

2. The Petitioner in the instant proceedings has assailed the demand made by the Divisional Forest Officer, Dibrugarh Division vide the communication dated 24.10.2017 of an amount of 10% of the royalty on account of deposit to be made to the District Mineral Foundation Trust. The learned senior counsel appearing on behalf of the petitioner submitted that the said directions vide the impugned communication is unauthorized and unconstitutional, inasmuch as, the petitioner herein would be liable only to the extent stated in the agreement entered into on 28.12.2017 enclosed as Annexure-12 to the writ petition. He drew this Court's attention to clause 4 of the permit which is at Part III of the agreement and stated that the petitioner's liability is only to an additional amount of 10% of the due permit money along with amount of installments on account of dead rent or royalty towards the Fund.

3. The learned senior counsel further drew the attention of this Court to Rule 2(I) of the Assam Minor Mineral Concession Rules 2013 (for short "the Rules of 2013") wherein the term 'fund' has been defined as the Mines and Mineral Development, Restoration and Rehabilitation Fund created and established under the Rules of 2013. The learned Senior

Counsel, therefore, submitted that the impugned notice, therefore, is contrary to the law and for which the same requires to be set aside.

4. Mr. R. R. Gogoi, the learned Standing counsel for the Forest Department submits that what has been withheld from the petitioner is an amount towards the fund in terms with Rule 2(I) of the Rules of 2013 and as per the mandate of Rule 58 of the said Rules of 2013. The learned Standing counsel for the Forest Department therefore submitted that in terms with the impugned communication dated 24.10.2017, no amount have been withheld from the Petitioner. Mr. R. R. Gogoi, the learned Standing counsel further submitted that the Petitioner being only a mining permit holder is not required to pay in terms with the impugned communication dated 24.10.2017.

5. Taking into account the above submission, the learned counsel for the Petitioner also submits that the Petitioner would be liable only in respect to the 10% in terms with the Rule 2(I) of the Rules of 2013 read with Rule 58 of the said Rules of 2013 and further reiterates that in terms with the impugned communication dated 24.10.2017, the petitioner is not liable to pay any such deposit.

6. This Court having taken note of the submissions and there being a consensus arrived to that affect that the Petitioner is only liable to pay in terms with Rule 2(I) read with Rule 58 of the Rules of 2013 and not liable in terms with the impugned communication dated 24.10.2017 and there being no deduction made in terms with the communication dated 24.10.2017, this Court disposes of the instant writ petition thereby setting aside the communication dated 24.10.2017 and further declaring that the petitioner is not liable to make payment in terms with the

communication dated 24.10.2017.

7. With above observations and directions, the instant petition stands disposed of.

8. Interim order passed if any, stands vacated.

JUDGE

Comparing Assistant