

GAHC010243922022



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

Case No. : WP(C)/7717/2022

M/S MAYUR STONE CRUSHER
REPRESENTED HEREIN BY OWNER NAMELY BINOD KUMAR MORE, AGED
ABOUT 65 YEARS, S/O LATE HIRA LAL MORE, ADD- BORBHETA, BORJURI,
BOKAKHAT, DIST- GOLAGHAT, ASSAM, PIN-785612

VERSUS

THE STATE OF ASSAM AND 3 ORS
(ENVIRONMENT AND FOREST DEPARTMENT, GOVT. OF ASSAM),
REPRESENTED HEREIN BY THE ADDL. CHIEF SECRETARY TO THE GOVT
OF ASSAM, DISPUR, SACHIBALAYA, DISPUR, GUWAHATI-06, ASSAM

2:THE SUB-DIVISIONAL OFFICER (CIVIL)
BOKAKHAT
OFFICE OF THE SUB-DIVISIONAL OFFICER (CIVIL)
GOVT. OF ASSAM
BOKAKHAT
DIST-GOLAGHAT
ASSAM
PIN-785612

3:THE DIRECTOR
KAZIRANGA NATIONAL PARK
BOKAKHAT
DIST- GOLAGHAT
ASSAM
PIN-785612

4:THE DIVISIONAL FOREST OFFICER
EASTERN ASSAM WILDLIFE DIVISION
DEPARTMENT OF FOREST
BOKAKHAT

DIST- GOLAGHAT
ASSAM
PIN-78561

For the Petitioner(s) : Mr. S. Chamaria, Advocate
For the Respondent(s) : Mr. K. P. Pathak, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 07.08.2024

Heard Mr. S. Chamaria, the learned counsel appearing on behalf of the Petitioner and Mr. K. P. Pathak, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 3 and 4. I have also heard Ms. M. Barman, the learned Junior Government Advocate appearing on behalf of the Respondent No.2.

2. The Petitioner herein is aggrieved by the order dated 30.04.2019 passed by the Divisional Forest Officer whereby the Petitioner's Stone Crusher Unit along with other Stone Crusher Units have been restrained from carrying out their activities in view of an order dated 12.04.2019 passed by the Supreme Court in the case of ***IN RE T. N. Godavarman Thirumulpad Vs. Union of India*** and more particularly in respect to the order in IA No.42944/2019.

3. The learned counsel for the Petitioner submitted that the directions so issued had no relevance with carrying out of operation of the Stone Crusher Unit of the Petitioner. The Supreme Court as per the learned counsel had only directed that all kind of mining and related activities along with the Kaziranga National Park area and in the entire catchment area of rivers/streams and

rivulets originating in Karbi Anglong Hill ranges and flowing in Kaziranga National Park including tiger reserve were restrained. The learned counsel for the Petitioner further submitted that the activity of stone crushing so carried out in the establishments of the Petitioner would not come within the meaning of mining as well as related activities and as such the impugned order dated 30.04.2019 requires to be interfered with by this Court.

4. On the other hand, Mr. K. P. Pathak, the learned Standing counsel for the Respondent Nos. 1, 3 and 4 submitted that the order dated 30.04.2019 was passed in view of the order dated 12.04.2019 passed by the Supreme Court wherein all mining and related activities have been restrained along with the Kaziranga National Park area. He further submitted that the Stone Crusher Unit is a polluting industry and if the Petitioner's Stone Crusher Unit is permitted, it would cause pollution and it is under such circumstances, the order dated 30.04.2019 ought not to be interfered with. He further submitted that the Forest Department of the Government of Assam have issued the communication dated 30.04.2019 on the basis of an understanding that the activity of Stone Crushing would come within the ambit of related activities as mentioned in the order of the Supreme Court dated 12.04.2019 and therefore submitted that if the petitioner is aggrieved by the order dated 30.04.2019 which have been impugned in the instant proceedings, the Petitioner can very well seek a clarification from the Supreme Court taking into account that the said proceedings are still pending.

5. This Court upon hearing the learned counsels for the parties is of the opinion that the words used in the order of the Supreme Court dated 12.04.2019 mentions about "mining" and "related activities". It is also seen that the said proceedings are presently pending before the Supreme Court and in the

opinion of this Court, it would not be proper for giving an interpretation to a term used in the order that too when the said proceedings are presently pending before the Supreme Court.

6. Under such circumstances, this Court while not interfering with the order dated 30.04.2019 as has been assailed in the instant proceedings observed that the Petitioner would always be at liberty to approach the Supreme Court to seek clarification as to whether the Stone Crusher Unit would come within the ambit of the word "related activities" as mentioned in the order dated 12.04.2019.

7. Taking into account the order which has been passed hereinabove, Mr. S. Chamaria, the learned counsel submitted that the Petitioner may be permitted to take out the already finished products which are lying in the Stone Crusher Unit of the Petitioner.

8. Mr. K. P. Pathak, the learned counsel appearing on behalf of the Forest Department submitted that for removing those materials, due permissions have to be taken from the Forest Department. Under such circumstances, this Court grants the liberty to the Petitioner to approach the concerned Divisional Forest Officer for due permission for removing the finished products. It is observed that in the circumstances, the Petitioner approaches the concerned Divisional Forest Officer, the said Authority shall do the needful in that regard by following the extant laws.

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

JUDGE

Comparing Assistant