

GAHC010244662017



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

Case No. : WP(C)/7588/2017

CHAKRA DHAR DAS
S/O LATE NARAYAN CH. DAS, VILL- CHITKAGAON, PO- CHAPRAKATA,
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
FOREST DEPTT., DISPUR, GUWAHATI-6

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTSP
O/O THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI-781037

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS P
LOWER ASSAM ZONE
KACHARIGHAT
GUWAHATI-781001

4:THE CONSERVATOR OF FORESTS
LOWER ASSAM SOCIAL FORESTRY CIRCLE
BONGAIGAON
PIN-783380

5:THE DIVISIONAL FOREST OFFICER
AIE VALLEY DIVISION
BONGAIGAON
PIN-783380

6:THE FOREST DEPOT OFFICER
AIE VALLEY DIVISION
BONGAIGAON
PIN-783380

7:SRI ANUPAM SARMA
MANAGING DIRECTOR FO ANPL-CMATPLJV
BHASKAR NAGAR
BY LANE NO. 2
BEHIND B.S. PUBLICATIONS
ZOO NARENGI ROAD
GUWAHATI-78102

Advocate for the Petitioner : MS.B BORA, MR.A HASSAN,MR.G BAISHYA

Advocate for the Respondent : SC, ENVIRONMENT AND FOREST DEPTT., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

23.10.2024

1. Heard Mr. G. Baishya, learned counsel for the petitioner as well as Mr. I. Borthakur, learned Standing Counsel for the Forest Department.
2. The matter pertains to grant of mining contract of the Chaprakata Hill Stone Quarry under the Aie Valley Division, Bongaigaon, for which an NIT was issued on 18.03.2017 by the DFO, Aie Valley Division, Bongaigaon. The stipulated quantity of stone was specified at 17,500 m³ and the settlement period was to be for a period of 7 years. The petitioner was one out of 7 tenderers who quoted their bids.
3. As can be seen from the Comparative Chart made by the DFO, the

petitioner's bid was the highest at Rs.3,65,55,555/-. The DFO thereafter made a recommendation for settlement of the stone quarry with the petitioner on 03.05.2017 to the Conservator of Forests, Lower Assam Social Forestry Circle, Bongaigaon. While the petitioner was expecting settlement of the stone quarry, the office of the Principal Chief Conservator of Forests (P) and Head of the Forest Force, Assam issued letter dated 19.08.2017, asking the DFO to submit justification for fixing the stipulated quantity of stones to be extracted at 17,500 m³ for 7 years, without delineating the boundary and the area, as the grant assigned per year appeared to be very low.

4. The DFO in his clarificatory letter dated 27.10.2017 thereafter stated that the calculation of the stone materials at 17,500 m³ was on the basis that the maximum mahal materials earmarked for supply for Government works. Disregarding the above report and the quantification made by the DFO, the Principal Chief Conservator of Forests issued the impugned letter dated 30.10.2017, stating that the tender process initiated by the DFO, Aie Valley Division's NIT dated 18.03.2017 was cancelled, as the annual stipulated quantity of stones was very low. The Conservator of Forests, Lower Assam Zone was thereafter requested to instruct the DFO to carry out proper assessment of the quantity of stone available in the Chaprakata Hill Stone Quarry and put the mining contract area for fresh sale, by inviting a fresh NIT after re-fixing the quantity of stone as well as the Government value/reserve price for the said mining contract area.

5. The petitioner being aggrieved thereafter filed the present case,

challenging the decision of the respondents in cancelling the NIT and the fresh NIT that was proposed to be issued. This Court, vide order dated 08.12.2017 thereafter passed an interim order, directing that a fresh NIT for the said stone quarry should not be issued pursuant to the impugned letter dated 30.10.2017 issued by the Principal Chief Conservator of Forests, Assam.

6. This Court has heard the submissions made by the counsels for the parties. However, this Court is of the view that due to efflux of time, the present case would only be of academic interest, inasmuch as, the issue with regard to settlement of the stone quarry for mining purposes is basically meant to earn revenue for the State. The NIT for settlement of the mining area was for a period of 7 years and that period has expired as on date, keeping in view that the NIT was issued on 18.03.2017 and the recommendation for settlement of the mining area had been made on 03.05.2017, which was not acceptable to the Higher Authorities.

7. The petitioner was never settled with the mining contract and in fact the petitioner had also been asked to take back his Earnest Money as far back as on November, 2017, vide letter dated 10.11.2017 issued by the DFO.

8. This Court is of the view that as more than 7 years have passed since the issuance of the NIT dated 18.03.2017, it would be in the interest of the Public Exchequer, if a fresh NIT is issued for settlement of the stone quarry, keeping in view the rate inflation and the fact that the price of stones is much higher now than it was in the year 2017. Accordingly, in view of the reasons stated above,

this Court is of the view that the writ petition cannot be allowed only on account of efflux of time. This writ petition is not being decided on the basis of merit, due to the reasons stated above.

9. Accordingly, the writ petition is disposed of, with liberty being given to the State respondents to issue a fresh NIT for settlement of the said stone quarry. The Earnest Money of the petitioner, if not returned, shall be returned back immediately.

JUDGE

Comparing Assistant