

GAHC010248862024



2024:GAU-AS:12059

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

Case No. : WP(C)/6371/2024

GOPI DAS
S/O- JITENDRA DAS,
R/O- VILLAGE SAT BOINIR TUP,
P.O- BARPETA ROAD,
DIST- BARPETA, ASSAM.
PIN-781313

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR, GUWAHATI-06.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE

ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI- 37.

3:THE DIVISIONAL FOREST OFFICER
AIE VALLEY
DIVISION
BONGAIGAO

Advocate for the Petitioner : MR. J SARMAH,

Advocate for the Respondent : SC, FOREST,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

02.12.2024

Heard Mr. J. Sarmah, learned counsel for the petitioner, who submits that the petitioner was settled with the AVD/ARB_MPA_Sand Mahal of 2023-25 located at Village Dawkijhar, Sub-Division Manikpur, Bongaigaon district, for a period of 2 years vide Agreement dated 06.07.2023.

2. The petitioner's counsel submits that the quantity of sand that could be extracted by the petitioner was 20,000 cubic metres. The petitioner's grievance is that due to the mining area being under flood waters, the petitioner could not extract sand easily and he has been able to extract only a minor quantity of sand till date.

3. The petitioner's counsel submits that though the petitioner had submitted various representations to the authorities, to undertake a survey/physical verification of the mining contract area being under flood waters, the respondents have not acted upon the petitioner's prayer till date.

4. The petitioner's counsel submits that though the petitioner had made various prayers in his various representations issued to the State respondents, the petitioner is limiting/restricting his prayer only to the extent that the respondents should undertake a survey/ verification of the mining permit area, which has been settled with the petitioner. If the survey/verification report comes to a finding that the mining permit area allotted to the petitioner is under flood water and there is not enough sand to extract, in terms of the agreement

made between the parties, the respondents should issue appropriate orders with regard to the revenue payable by the petitioner.

5. Mr. R.R. Gogoi, learned counsel for the Forest Department submits that he has got no objection to the prayer made by the petitioner's counsel. However, the petitioner would have to bear the expenses of the survey/verification to be made, in terms of Part-V Rule 6 of the agreement executed between the parties.

6. On considering the submission made by the counsels for the parties, the respondent No.3 is directed to conduct a survey/verification of the mining permit area and take a decision on the report made thereafter. It is needless to add that the cost of the survey/verification would have to be borne by the petitioner in terms of the agreement. The entire exercise, including the decision to be made by the DFO, should be concluded within a period of 1(one) month from the date of receipt of a certified copy of this order.

7. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant