

GAHC010253662024



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

Case No. : WP(C)/6354/2024

M/S EAST INDIA CONSTRUCTION
ADARSHAPUR LANE, H/NO. 43, GUWAHATI, P.O. KAHILIPARA, P.S. DISPUR,
DIST. KAMRUP METROPOLITAN, ASSAM, PIN- 781009 DULY REPRESENTED
BY ONE OF THE PARTNERS, SRI RAJIB HAZARIKA, SON OF LATE PRABIN
HAZARIKA, R/O- B.P. CHALIHA ROAD, MELACHAKAR, P.O. SIVASAGAR-
785640, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SPECIAL SECRETARY TO
THE GOVT. OF ASSAM, DISPUR, GUWAHATI-781006.

2:THE CHIEF ENGINEER
PWD (ROADS)
ASSAM CHANDMARI
GHY-781003.

3:THE SUPERINTENDING ENGINEER
PWD (ROADS)
CHARAIDEO AND SIVASAGAR ROAD CIRCLE
SIVASAGAR ASSAM
PIN- 785640.

4:THE EXECUTIVE ENGINEER
PWD
SIVASAGAR AND THOWRA TERRITORIAL ROAD DIVISION
SIVASAGAR ASSAM-785640.

5:THE DIVISIONAL FOREST OFFICER
SIVASAGAR FOREST DIVISION
SIVASAGAR
ASSAM-785640

Advocate for the Petitioner : MR. P BORA, MR H K SARMA,MS K BHATTACHARYYA,MS K SARMA

Advocate for the Respondent : GA, ASSAM, SC, PWD,SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 16-12-2024

Heard Mr. P Bora, learned senior counsel assisted by Mr. HK Sarma, learned counsel for the petitioner. Also heard Mr. RR Gogoi, learned counsel for the Forest Department and Ms. H Baruah, learned counsel appearing on behalf of Mr. P Nayak, learned counsel for the PWD.

2. Learned senior counsel for the petitioner submits that the petitioner needs to transport clay for his contract work for filling up the embankment. However, the permission given to the petitioner for transporting clay had expired on 15.08.2024. The petitioner's counsel submits that in terms of the work order dated 17.08.2023 issued by the Chief Engineer PWD (Roads), Assam for "construction of embankment cum road on Dessang bund L/B from Bahgarh to AT Road (Ch.0.00m to Ch.2500.00m) under Mukhya Mantrir Mothauri Pokikoron Achoni under RIDF-XXVIII of NABARD for the year 2022-23 in Sivasagar LAC." Pkg No:- RE/RIDF-XXVIII/Sivasagar/5 and the work permit dated 26.10.2023, which was valid till 15.08.2024, the petitioner could extract 10,000/- cubic metre of clay. However, the petitioner has extracted only 995 cubic metre of clay.

3. The petitioner's counsel submits that the petitioner's representations dated

12.11.2024 and 16.11.2024 to the Additional District Commissioner, Mines and Minerals, Sivasagar and DFO(T), Sivasagar Forest Division, Sivasagar, respectively for extension of his permit, have not been decided till date.

4. Mr. RR Gogoi, learned counsel for the Forest Department submits that the extension of the petitioner's permit for extraction and transportation of clay, would have to be decided by the State Environmental Impact Assessment Authority (SEIAA), which is under the Forest Department. He submits that as per the Principal Secretary to the Government of Assam, Mines & Mineral Department, Dispur Notification No. PEM/8/84/Pt-III/14-A dated 03.08.2021, the concerned Deputy Commissioner is the competent authority for all the works related to ordinary clay. The user agency must obtain Environmental Clearance Certificate issued from the SEIAA, Assam, after the application is forwarded by the District Commissioner.

5. On considering the submissions made by the counsels for the parties, this Court finds that the District Commissioner has not been made a party in this case. This Court is of the view that the District Commissioner, Sivasagar should be made a party and accordingly and District Commissioner, Sivasagar is impleaded as respondent No. 6. The petitioner shall submit corrected copy of the cause-title to the Registry within the course of the day.

6. Issue notice to the District Commissioner, Sivasagar.

7. Mr. G Bokalia accepts notice on behalf of respondent No. 6.

8. In view of the notification No. PEM/8/84/Pt-III/14-A issued by the Principal

Secretary to the Government of Assam, Mines & Mineral Department, Dispur, this Court is of the view that a fresh representation should be submitted by the petitioner to the District Commissioner, Sivasagar, for being allowed to extract clay by extending the permit provided to it earlier. Accordingly, the petitioner shall submit a representation to the District Commissioner, Sivasagar for extension of the permit for extraction of clay within a period of two days. In the event, the representation is submitted to the District Commissioner, Sivasagar in two days, the District Commissioner, Sivasagar shall thereafter forward the same to the SEIAA, within a further period of two days. The SEIAA shall thereafter take a decision and convey its decision to the Divisional Forest Officer, Sivasagar Forest Division, who shall communicate the same to the petitioner.

9. The entire exercise should be concluded within a period of 2 (two) weeks' from the date of receipt of the petitioner's representations by the concerned District Commissioner, Sivasagar.

10. The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant