

GAHC010255352024



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

Case No. : WP(C)/6452/2024

DHANESWAR BORO
S/O- LT. PARAMESWAR BORO, R/O- HOUSE NO. 91, SONKUCHI PATH,
BEHERBARI, BORSAJAI, P.O. AND P.S. BASISTHA, GUWAHATI-29, DIST-
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ARANYA BHAWAN
PANJABARI
GUWAHATI- 781037

3:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
MINES AND MINERALS DEPARTMENT
DISPUR
GUWAHATI- 781006

4:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HOUSING AND URBAN AFFAIRS DEPARTMENT
DISPUR
GUWAHATI- 781006

5:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
MINES AND MINERALS DEPARTMENT

DISPUR
GUWAHATI- 781006

6:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
MINES AND MINERALS DEPARTMENT
DISPUR
GUWAHATI- 781006

7:THE GUWAHATI MUNICIPAL CORPORATION
REPRESENTED BY ITS COMMISSIONER
UZANBAZAR
GUWAHATI- 781001

8:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (GMDA)
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
BHANGAGARH
ASSAM
GUWAHATI- 78100

Advocate for the Petitioner : MR. S A AHMED, A. KHANAM,MR. F A AHMED

Advocate for the Respondent : GA, ASSAM, SC, G M D A,SC, GMC,SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

06.12.2024

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Heard Mr. S.A. Ahmed, learned counsel for the petitioner. Also heard Mr. S. Bora, learned counsel appears for the respondent Nos. 4, 7 and 8, Mr. B. Das, learned counsel for the respondent Nos. 1 and 2 and Mr. S. Baruah, learned Government Advocate appears for the respondent Nos. 3, 5 and 6.

The petitioner approached this Court putting to challenge a notification dated 07.10.2021. The learned counsel for the petitioner has submitted before this Court that he had instructions that the challenge made in the writ petition to the notification dated 07.10.2021 is not pressed, instead he is aggrieved by

the communication No. PEM.174336/183 dated 02.03.2023 (Annexure F), whereby the Department of Mines and Minerals Government of Assam has informed the Department of Housing and Urban Affairs that the notification dated 07.10.2021 will be applicable for realization of Forest Royalties in both Government Department/urban Local Bodies for both Government and Private agencies until further order.

It is submitted by the counsel for the petitioner that although the writ petition was initially directed putting to challenge the notification dated 07.10.2021 (Annexure E), subsequently he is informed that a Co-ordinate Bench has already passed an order that the communication No.PEM.174336/183 dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines & Minerals Department, Government of Assam (Annexure F) was interfered with and set aside by the judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024. He therefore, submits that a similar order be issued by this Court in the present writ petition.

Mr. S. Bora, learned counsel representing the respondent Nos. 4, 7 and 8 submits that if the petitioner has put to challenge the notification dated 07.10.2021 (Annexure E) then the matter ought to be placed before the Division Bench by the Registry. However, if he has abandoned the challenge and instead seeks to challenge the communication No. PEM.174336/183 dated 02.03.2023 (Annexure F) then a Co-ordinate Bench of this Court by judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024 has already interfered with the same.

Having heard the learned counsels for the parties, it is seen that by judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024, the notification dated 07.10.2021 has already interfered with. Therefore, no further

direction is called for interfering with the said notification as prayed for by the learned counsel for the petitioner. Since the petitioner has abandoned his original prayer putting to challenge the notification dated 07.10.2021 (Annexure E) and also in view of the fact that the communication No. PEM.174336/183 dated 02.03.2023 (Annexure F) having being already set aside by judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024, no further order is called for in the writ petition. However, taking into consideration the submissions of the learned counsel for the petitioners that notwithstanding the interference of the communication No. PEM.174336/183 dated 02.03.2023 by this Court vide judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024 the Department of Mines & Minerals, Assam have been verbally demanding the payment for forest royalties from the petitioner, this writ petition is disposed of with a direction to the respondents that in view of the communication No. PEM.174336/183 dated 02.03.2023 having been set aside by the judgment and order dated 24.09.2024 passed in WP(C) 4085 of 2024 by this Court, no further demand can be made from the petitioner on the basis of the said communication PEM.174336/183 dated 02.03.2023 (Annexure F) enclosed to the writ petition, any such demand if made is contrary to judgment and order passed by this Court.

Accordingly, this writ petition is disposed of in terms of the above at the motion stage.

JUDGE

Comparing Assistant