

GAHC010257892024



2024:GAU-AS:12397

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

Case No. : WP(C)/6541/2024

MD. TARIKUDDIN AHMED
S/O- MAYAJUDDIN, R/O- SURVEY (PART), P.O. AND P.S. DISPUR,
GUWAHATI- 781006, DISTRICT- 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 MICHAEL ZOTHANKHUMA

ORDER

Date : 09-12-2024

Heard Mr. SA Ahmed, learned counsel for the petitioner, who submits that the petitioner is the owner of a plot of land measuring 1 Katha 9.97 lechas covered by Dag No. 3210 of K.P. Patta No. 2045 of Revenue Village: Hatigaon under Beltola Mouza, Revenue Circle- Dispur in the district of Kamrup (Metro), Assam. The petitioner applied for grant of permission to construct a building on the said plot of land vide Reference No MMSGNA Application Id No. 14215. The petitioner's grievance is that the respondent authorities have insisted on payment of 2% Forest Royalty, on the total cost of the building, before the NOC/permission can be given, as per Government communication dated 02.03.2023, issued by the Joint Secretary to the

Government of Assam, Mines and Minerals Department.

2. The petitioner's counsel submits that the impugned communication dated 02.03.2023 has already been set aside by this Court in WP(C) No. 4085/2024 and as such, the respondents cannot deny the grant of building permission/NOC on the ground of non-payment of 2% Forest Royalty, as the building is to be constructed on the petitioner's land.

3. Mr. I Borthakur, learned counsel for the Forest Department, Mr. K Gogoi, learned counsel for the respondent Nos. 3, 5 & 6 and Mr. S Bora, learned counsel for the respondent Nos. 4, 7 & 8 submit that the present case is a covered case in terms of WP(C) 4085/2024 and WP(C) 5049/2024 and the petitioner is not required to pay any Forest Royalty when he is constructing a building on his own land.

4. The operative portion of para 19 of the judgment and order dated 24.09.2024 passed in WP(C) 4085/2024 is reproduced herein below:-

“19. In view of the above analysis, it is therefore the opinion of this Court that the impugned communication dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines and Mineral Department thereby stipulating that the amendments carried out by the Amending Rules would also apply to the private agencies is contrary to the Act of 1957 as well as the Rules of 2013 as amended by the Amending Rules. Accordingly, the impugned communication dated 02.03.2023 is set aside and quashed.”

5. In view of the fact that this case is a covered case and as the impugned

communication dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines and Minerals Department has been set aside, the prayer of the petitioner is allowed. The respondents are accordingly directed not to ask for payment of deposit of 2% Forest Royalty and they should grant the necessary permission/NOC to the petitioner, unless the same is not permitted due to some other reason/s.

6. The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant