

GAHC010023452024



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

Case No. : WP(C)/669/2024

AJIT BARUAH
S/O- HAREN BARUAH,
PERMANENT R/O- VIOLLAGE RANABARI,
P.O- SINGRA,
P.S- NORTH LAKHIMPUR,
DIST- LAKHIMPUR, ASSAM, PIN-787023

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR, GHY-6.
DIST- KAMRUP (M), ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF
FOREST
AND HEAD OF FOREST FORCE
ASSAM
PANJABARI
GHY-37.
KAMRUP (M)
ASSAM

3:THE CHIEF CONSERVATOR OF FOREST
NORTHERN ASSAM CIRCLE
TEZPUR

DIST- SONITPUR
ASSAM
PIN-784001

4:THE DIVISIONAL FOREST OFFICER
LAKHIMPUR DIVISION

NORTH LAKHIMPUR
DIST-LAKHIMPUR

PIN-787001
ASSAM.

5:THE DIRECTOR
OF GEOLOGY AND MINING
ASSAM
KAHILIPARA
GUWAHATI
PIN-781019
DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. M MAHANTA

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

29.04.2024

1. Heard Mr. M. Mahanta, learned counsel for the petitioner. Mr. R.R. Gogoi, learned counsel appears for the Forest Department, while Mr. K. Gogoi, learned counsel appears for the respondent no.5.

2. The petitioner has by way of this writ petition prayed that a direction should be issued to the respondent No.5 to (i) depute a recognized qualified person to reassess the quantity of minor mineral reserves of Lower Dikrong Sand and Gravel Mining Contract Area and (ii) direct the State respondents not to demand payment of kist money from the petitioner in respect of the Lower Dikrong Sand and Gravel Mining Contract Area, until the reassessment of the

Mining Contract Area as directed by the competent authority in the Forest Department is completed.

3. The petitioner's case is that pursuant to a Long E-Auction Notice dated 02.09.2021, the petitioner was allowed to mine the Lower Dikrong Sand and Gravel Mining Contract Area comprising of 6 hectares for 7 years from 2021-2027, for sand and gravel at his bid value of Rs.6,04,00,000/-. Subsequent to the final settlement of the mining area, work order dated 08.12.2022 was issued by the respondent No.4 to the petitioner and possession of the mining contract area ('MCA' in short) was handed over to the petitioner for operation. According to the petitioner, soon after taking possession of the mining contract area, he found that the quantity of sand and gravel in the mining contract area was much less than what could have been extracted, as provided in the Long E-Auction Notice. As the petitioner feared suffering huge loss, he made a complaint to the Chief Conservator of Forest, Northern Assam Circle, Tezpur (respondent No.3), who directed the Divisional Forest Officer, Lakhimpur Division, North Lakhimpur (respondent No.4) to conduct reassessment of the quantity of materials available for mining in the mining contract area. The respondent No. 4 thereafter wrote a letter dated 21.12.2023 to the Director of Geology and Mining, Assam (respondent No.5), requesting him to depute one recognized qualified ('RQP' in short) person for the purpose of reassessing the materials in the mining contract area. Subsequent to the above, the RQP has submitted a reassessment report of Lower Dikrong Sand and Gravel MCA, vide letter dated 27.02.2024.

4. The recommendation and conclusion of the RQP in respect of Lower Dikrong Sand and Gravel Reassessment Report states as follows-

“3. Recommendation and Conclusion:

- 1) During the initial field visit by Dr. Moloi Borah (RQP) in December, 2021 it was observed that adequate sand and gravel were available in the river bed and considering the availability, the estimation of the stone materials were made by the RQP in the mining plan which was accepted by the concerned DFO and the same was given in the NIT document.
- 2) In the NIT, it was clearly written that the intending bidder should check the availability of materials after site visit and then apply for the bid.
- 3) Pursuant to the bid submitted, the mahal was settled with the successful bidder and the quantity and the amount were finalised and committed for 7(seven) years.
- 4) It is pertinent to mention that subsequent to the site visit of the mahaldar he should apply for the tender and the Government/competent authority shall not have any obligation if the materials are not available subsequent to his field visit.
- 5) From the present site visit on 24/02/2024, it appears that a lot of materials have been extracted and no cross checking is possible as to how much material of stone/gravels were supplied by the mahaldar
- 6) Probably due to a change in the river dynamics, the replenishment pattern in the Dikrong River in and around Lower Dikrong Sand and Gravel Mining Contract Area, at present (2023-24) has changed a little and the percentage of Gravel deposition is partially reduced by 10%, as compared to the previous seasons (2021- 22 and 2022-23). At present the Gravel is 50% and Sand is 50% as observed in the Lower Dikrong MCA
- 7) The change in river dynamics may be due to the anthropogenic activity in and around the catchment area of the river, channel shifting, changes in channel morphology and ecological influences in the catchment region.
- 8) Excessive extraction in the previous years beyond the recommended quantity per year may also be the cause of change in gravel percentage

9) Excessive extraction in the previous years beyond the recommended quantity per year may also be the cause of change in gravel percentage

10) Probably due to a short-term natural change in the river dynamics, the replenishment pattern of the sediments may have changed somewhat in and around Lower Dikrong MCA for this particular time. From this point, it couldn't be concluded that the depositional/replenishment pattern in the mining contract area will be the same in the coming years. Sometimes due to heavy flood, rate of the gravel deposition may increase in the MCA (riverbed). It's truly a natural process and normal in riverbed sedimentation pattern."

5. At this stage, Mr. M. Mahanta prays that he may be allowed to withdraw the writ petition for allowing him to file afresh, if the need arises.

6. The prayer of the petitioner's counsel is allowed.

7. The writ petition is dismissed as withdrawn, with liberty as prayed for.

JUDGE

Comparing Assistant