

GAHC010020432019



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

Case No. : PIL/6/2019

SAMSUL ISLAM MAZUMDER AND ANR.
PRESIDENT, AGRONEE CLUB, LANE NO.2, KALIBARI ROAD,
UDHARBOND, P.O. UDHARBOND, DIST. CACHAR, ASSAM.

2: FARUQUE HUSSAIN BARBHUIYA

GENERAL SECRETARY
AGRONEE CLUB
LANE NO.2
KALIBARI ROAD
UDHARBOND
P.O. UDHARBOND
DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPTT., DISPUR, GUWAHATI-06.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ASSAM
REHABARI
GUWAHATI-08.

3:THE CONSERVATOR OF FORESTS
SOUTHERN ASSAM CIRCLE
P.O. SILCHAR
DIST. CACHAR
ASSAM.

4:THE DIVISIONAL FOREST OFFICER
CACHAR FOREST DIVISION
SILCHAR

DIST. CACHAR
ASSAM.

5:THE DY. COMMISSIONER
CACHAR
SILCHAR
DIST. CACHAR.

6:SRI BUSHAN PAUL
S/O. LT. ASHWINI PAUL
R/O. VILL. DADAGRAM
P.O. AND P.S. DHOLAI
DIS.T CACHAR
ASSAM-788114.

7:SRI ANUPAM SHARMA
PROPRIETOR
ANPL
PANGRAM
NEAR GAUTAM CONSTRUCTIO
P.O. PANGRAM
P.S. UDHARBOND
DIST. CACHAR
ASSAM-781030

Advocate for the Petitioner : MR. M H LASKAR
Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

22.02.2024

(Vijay Bishnoi, CJ)

Heard Mr. M. H. Laskar, learned counsel appearing for the petitioners. Also heard Mr. P.N. Goswami, Additional Advocate General, Assam, and Mr. D. Gogoi, learned Standing Counsel, Forest Department, appearing for the respondents.

This writ petition is filed by the petitioners in the design of Public Interest Litigation raising a grievance that illegal mining activities/extraction of stone from Dora Nala and Thaikul Nala (tributaries of the Madhura river in the district of Cachar), are being carried out by the private respondents with the connivance of Government officials.

Learned counsel appearing for the petitioners has invited our attention towards an order passed by a co-ordinate Bench of this Court on 20.04.2023, wherein this Court, while addressing the similar grievance raised by the petitioners regarding illegal extraction of stone from Thaikul Nala and Madhura river by using excavator/JCB, had granted time to the respondents to bring on record the report of the satellite/drone survey conducted over the forest area in question as per the earlier direction passed by this Court.

Learned counsel appearing for the respondents have referred the written instructions dated 23.05.2023 received from the Divisional Forest Officer, Cachar Division, wherein it is stated that as per the direction of this Court passed on 20.04.2023, a drone survey was conducted along the Madhura river stretch and the drone footages clearly show that there is no mining operations either in Dora Nala or Thaikul Nala. The photographs/drone footages have also been enclosed along with the written instructions.

Learned counsel for the respondents have further submitted that in PIL No. 14/2020, a coordinate Bench of this Court, while considering similar grievance raised by the petitioners regarding illegal extraction of stone from Dora Nala and Thaikul Nala, had directed vide order dated 06.02.2020 for constitution of a Three Member Team to conduct spot enquiry and submit its report. The Committee conducted spot enquiries on 13.02.2020 and 14.02.2020 and submitted its report to the effect that no activity of collection/extraction of stones from the river bank of Madhura river was noticed. Considering the said report, PIL 14/2020 was disposed vide order dated

25.05.2023.

Learned counsel for the petitioners is not in a position to dispute the said position.

This Court, in PIL 14/2020, has passed the following order:

“The instant writ petition in the nature of public interest litigation was filed by the petitioners raising a grievance regarding illegal extraction of stones from small canals/nalas of Madhura River by using excavator/JCB.

The mining leases for minor minerals were granted by the concerned department from the Dora nala and Thaikul Nala which are tributaries of the Madhura River. This Court vide order dated 06.02.2020, directed constitution of a Three Member Team which conducted spot enquiries on 13.02.2020 and 14.02.2020. The report of the Three Member team indicates that it did not notice any activity of collection/extraction of stones from the river bank of Madhura river. However, it was noticed that stones were being extracted from nearby quarries, i.e. Dora Nala and Thaikul Nala. The team further reported that the Dora Nala stone extraction permit was issued for the purpose of Government development works under the Assam Minor Mineral Concession Rules, 2013 whereas Thaikul Nala stone quarry was settled with one Bhusan Paul through competitive bidding process as laid down under the Rules of 2013. The committee also reported that previous reports prepared by the department were not in conformity with the findings of the committee. The department in turn, filed an additional affidavit on 20.04.2023 wherein aspersions have been cast on one Rajib Das who claimed to be representing the petitioners and assisted the committee without any authority. It was further alleged that Rajib Das was an unsuccessful bidder who had participated in the tender process for settlement of the Dora Nala and Michikur Nala concession areas.

Considering the facts mentioned above, and as the committee itself has reported that the stone extraction activities are not being presently carried out from the Madhura river, and since the stone quarries of Dora Nala and Thaikul Nala are operating under valid leases granted under Rules, 2013, no further directions are required to be issued in the writ petition. Needless to say that if at all the petitioners are aggrieved by mining leases granted for extraction of stones from Dora Nala and Thaikul Nala, they would be required to avail the suitable remedy for challenging the same.

In any event, in the present PIL, there is no challenge to the mining leases granted for these two locations, i.e. Dora Nala and Thaikul Nala. Hence, requiring the respondents to ensure by proper monitoring that the mining activities of Dora Nala and Thaikul Nala quarries are carried out strictly within the confines of the concession area and that no illegal mining activities are permitted in the Madhura River bed, proceedings of the instant PIL are closed.”

In view of the fact that similar issue has already been dealt with by this Court in

PIL 14/2020, we are not inclined to pass any order in this PIL and the same is accordingly disposed of in terms with the observations and directions passed in PIL 14/2020.

JUDGE

CHIEF JUSTICE

Comparing Assistant