

(2021) 06 GAU CK 0129

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3125 Of 2021

Swapna Bania Das

APPELLANT

Vs

State Of Assam And 3 Ors.

RESPONDENT

Date of Decision : 23-06-2021

Acts Referred:

Assam Minor Mineral Concession Rules, 2013 — Rule 18, 19

Citation : (2021) 06 GAU CK 0129

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : D Das

Judgement

Heard Mr. D. Das, learned senior counsel assisted by Mr. M. Mahanta, learned counsel for the petitioner. Also heard Mr. P.N. Goswami, learned

Additional Advocate General appearing for the respondents.

The case projected by the learned senior counsel for the petitioner is that the petitioner is the mining contract holder in respect of Dikrong Sand &

Gravel Mining Area for the period of 2014-2021 ending on 25.05.2021. It is projected that soon after taking over possession of the said mining area,

there was devastating flood in and around mining contract area and a part of such area was rendered unworkable. It is also projected that the

mainstream of the Dikrong river had also changed its course. Referring to the report submitted by the Directorate of Geology and Mining, Assam,

which was forwarded by letter dated 07.08.2015, it is submitted that mining area had been considerably reduced. The learned senior counsel further

submits that the petitioner has suffered substantial loss and therefore, on 08.04.2021, an application was submitted before the competent authority for

renewal and/ or extension of the mining contract. It is also submitted that on an earlier occasion, the petitioner had approached this Court by filing

WP(C) 1943/2017 and that this Court by order dated 21.06.2017, taking note of the next installment due on 01.07.2017, provided in the interim that the

petitioner shall deposit 50% of the assessed amount for the installment and the balance amount shall be further decision of the Court. It is submitted

that the said writ petition is pending for disposal. Accordingly, it is submitted that in view of the shrinkage of mining area by approximately 60%, the

petitioner is also entitled to seek remission of the kist money already paid and/ or which had become due. In the writ petition, the petitioner has prayed

for direction to the respondent no.2 to consider the resolution dated 04.08.2021 and in the alternative, for a direction to the respondents to refund

excess amount paid by the petitioner up to 12 (twelve) kist/ installment. The petitioner has also prayed for an interim relief to suspend the e-auction

notice dated 07.06.2021 in respect of the said mining area to permit the petitioner to start the operation of the mining area by depositing proportionate

amount of the kist money.

Opposing the writ petition and the prayer for interim relief, the learned Additional Advocate General for the State by referring to Rule 18 and 19 of the

Assam Minor Mineral Concession Rules, 2013 has submitted that there is no scope for extension of the mining lease if the contractor do not submit an

application to the competent authority for renewal of the mining contract 18 (eighteen) months prior to the date of expiry of the contract period.

Referring to the case of Dharmendra Kumar Singh vs. State of Uttar Pradesh, (2021) 1 SCC 93, it is submitted that there is no scope for any

extension of lease as the tenure of the lease has already expired on 25.05.2021.

Having regard to the nature of grievance raised in the present writ petition, let a notice along with notice for prayer for interim relief returnable on

04.08.2021 be issued.

As the learned Additional Advocate General accepts notice on behalf of all the respondents, requisite additional copies of the writ petition be furnished

to his assisting counsel within 2 (two) days.

At this stage, the Court is of the considered opinion that liberty be granted to the petitioner to submit a fresh representation before the respondent no.2

for claiming remission of the refund of kist money already paid and/ or which has

become due and on receipt of the said representation, the respondent no.2 shall make an endeavour to dispose of the same within a period of 3 (three) weeks from the date of receipt of such representation.

Pendency of this writ petition shall not be a bar for the petitioner to participate in the tender process of e-auction dated 07.06.2021.

List on 04.08.2021.