

GAHC010076382022



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

Case No. : WP(C)/2717/2022

UTIMRAJ COMMERCIAL PVT LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT

VERSUS

THE GENERAL MANAGER AND 2 ORS
NORTH EASTERN FRONTIER RAILWAYS, MALIGAON, GUWAHATI
(ASSAM).

2:THE CHIEF FREIGHT TRANSPORTATION MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI

3:THE ASSAM MINERAL DEVELOPMENT CORPORATION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
KHANIJ BHAWAN
NEAR GANESH MANDIR
R.P. ROAD
DISPUR
GUWAHATI- 781006
ASSAM

Advocate for the Petitioner : DR. A SARAF

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

27.04.2022

Heard Mr. A. Goyal, the learned counsel for the petitioner. Also heard Mr. P. Sarma, the learned counsel for the respondent No. 3 and Ms. M. Baruah, the learned counsel for the respondent No. 1 and 2.

The petitioner is dealing with the business of coal in the States of Meghalaya and for the purpose, the coal is being transported from the States of Meghalaya to other different States in the country and for the purpose of the railways are used as a transporter.

The petitioner has necessary documents pertaining to the coal that are being transported allowing them to transport it from the States of Meghalaya to the other States through the Railways but the coal has to pass through the State of Assam. It is stated that the necessary transit passes and NOCs from the Government of Meghalaya has also been obtained by the petitioner. In the circumstances, the petitioner is aggrieved by the communication dated 10.02.2022 of the Managing Director, Assam Mineral Development Corporation Limited requiring the Chief Freight Transportation Manager of the NF Railways, Maligaon that the transit passes, supporting documents/papers etc. submitted by the intending coal transporters be sent to the office of the Managing Director, Assam Mineral Development Corporation Limited for verification and for issuance of joint NOC by the Assam Mineral Development Corporation Limited and the Directorate of Geology & Mining, Assam and without following such procedure

the coal for transport be not loaded in the rakes of the Railways.

If the coal are being transported from the State of Meghalaya to the other States and are being transported by the Railways through the State of Assam, the authorities in the State of Assam, may be the Assam Mineral Development Corporation, would have a jurisdiction to inspect the documents. But prima it cannot be a case where the Assam Mineral Development Corporation would require the Railways not to transport the coal without any joint NOC being issued by the Assam Mineral Development Corporation inasmuch as the Assam Mineral Development Corporation may not have the jurisdiction for issuance of such joint NOC.

Accordingly, Issue notice, returnable after four weeks.

Mr. P. Sarma, the learned counsel accepts notice on behalf of respondent No. 3 and Ms. M. Baruah, the learned counsel accepts notice on behalf of the respondent Nos. 1 and 2. Requisite extra copies of the writ petition be served on the learned counsel for the respondent Nos. 1, 2 and 3.

In view of the prima facie case being made out, till the next returnable date, the communication dated 10.02.2022 of the Managing Director, Assam Mineral Development Corporation Limited be not given effect by the authorities of the NF Railways so far the petitioner is concerned.

However, the this order shall not be a bar for the competent respondent authorities to examine the documents accompanying the coal sought to be transported and be satisfied as to the genuineness of the place of origin of the said coal.

JUDGE

Comparing Assistant