

GAHC010102072024



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

Case No. : WP(C)/2700/2024

NAVAJYOTI SARMA
SON OF LATE TRILOCHAN SARMA,
RESIDENT OF KAMAKHYA MANDIR,
GUWAHATI- 781010,
DISTRICT- KAMRUP(METROPOLITAN),
ASSAM.

VERSUS

UNION OF INDIA AND 9 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF CULTURE,
GOVERNMENT OF INDIA,
502-C WING, SHASTRI BHAWAN,
NEW DELHI- 110001.

2:MINISTRY OF TOURISM
GOVERNMENT OF INDIA
THROUGH ITS SECRETARY

CHAIRMAN OF PRASHAD SCHEME

R.NO. 109
TRANSPORT BHAWAN

1- PARLIAMENT STREET
NEW DELHI
110001.

3:ARCHEOLOGICAL SURVEY OF INDIA
THROUGH ITS DIRECTOR GENERAL

DHAROHAR BHAWAN
24 TILAK MARG

NEW DELHI 110001.

4:THE CHAIRMAN

PM DEVINE SCHEME
SECRETARY

MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION

VIGYAN BHAWAN ANNEXE
MAULANA AZAD ROAD

NEW DELHI 110001.

5:THE STATE OF ASSAM
THROUGH ITS CHIEF SECRETARY

GOVERNMENT OF ASSAM

BLOCK-C
3RD FLOOR
ASSAM SACHIVALAYA

DISPUR
GUWAHATI- 781006.

6:PUBLIC WORKS (BUILDING AND NATIONAL HIGHWAY) DEPARTMENT
THROUGH ITS SPECIAL COMMISSIONER AND SPECIAL SECRETARY TO
THE GOVERNMENT OF ASSAM

BLOCK B
GROUND FLOOR
ASSAM SECRETARIAT

DISPUR
GUWAHATI- 781006.

7:DIRECTOR OF ARCHAEOLOGY
ASSAM
GOVERNMENT OF ASSAM

GOPINATH BORDOLOI ROAD

AMBARI
GUWAHATI

ASSAM
781001.

8:DEPARTMENT OF CULTURAL AFFAIRS
THROUGH ITS DIRECTOR

DIRECTORATE OF ARCHAEOLOGY

GOVERNMENT OF ASSAM

GOPINATH BORDOLOI ROAD
AMBARI

GUWAHATI
ASSAM
781001.

9:DEPARTMENT OF TOURISM
THROUGH PRINCIPAL SECRETARY
GOVERNMENT OF ASSAM

ASSAM SECRETARIAT (CIVIL)
BLOCK-F
3RD FLOOR

DISPUR
GUWAHATI-781006
ASSAM.

10:LARSEN AND TOUBRO LIMITED
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR
AND HAVING ITS OFFICE AT MOUNT POONAMALEE ROAD

MANAPAKKAM
CHENNAI- 600089
TAMIL NADU

Advocate for the Petitioner : MR. K P PATHAK

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

19.06.2024

Heard Mr. Upamanyu Hazarika, learned Senior Counsel assisted by Mr. R.P. Sarma, learned counsel for the petitioner. Also heard Mr. Devajit Saikia, learned Advocate General, Assam, assisted by Mr. D. Nath, learned Senior Government Advocate, Assam, Mr. R. K. Dev, learned Deputy Solicitor General of India and Mr. R. Borpujari, learned Standing Counsel, Finance Department representing the respondent no.10.

2] The petitioner has filed the affidavit-in-reply yesterday to the affidavit-in-opposition filed by the respondent no.6 and the same has been called by the Court and is connected to the case record today.

3] Learned Senior Counsel for the petitioner has referred to the averments made in the affidavit-in-opposition filed by the respondent no.6 wherein it is stated that the Department of Public Works (Building and National Highway) is proceeding to execute an MoU for scrutinizing the drawings relating to the construction of the Maa Kamakhya Temple Corridor and while scrutinizing the same, the IIT Guwahati team will undertake Hydrological and Geological studies, which is mandatory in nature. No construction shall start until due

clearance from IIT- Guwahati is received as well as from other relevant agencies are obtained. It is also worth stating that Consent to Establish (CTE) has already been obtained from the State Pollution Control Board.

4] Mr. D. Saikia, learned Advocate General, Assam, submits that there is a clear averment that no construction will start until due clearance from the IIT, Guwahati, as well as from other relevant agencies are received. Referring to the NIT, Mr. D. Saikia further submits that in the NIT itself there is a clause which stipulates that clearance from all relevant agencies are required to be obtained prior to taking up any construction. He reiterates his submissions that there will be no damage to the existing temple sanctum or to the internal spring(s) within the temple as apprehended by the petitioner. He further submits that this NIT is for Engineering Procurement and Construction (EPC) Mode. He submits that the progress made is at the engineering stage, which means that the drawings, design and clearances, etc are required to be finalized and only after that stage is completed, the project will move to the next stage, which is procurement of relevant materials and due completion of the first two stages, that is engineering and procurement stage only, the construction work will proceed. Therefore, at this stage, the apprehension expressed by the petitioner that immediate construction is likely to be undertaken is not correct. He further submits that in view of the rejoinder affidavit filed by the petitioner, he would

like to bring on record certain relevant documents and other papers which are necessary in support of the contentions made by the respondents by filing an additional affidavit. He submits that the respondents be permitted 3 (three) weeks time to file the additional affidavit.

5] Mr. D. Saikia further submits that the question of maintainability of the writ petition should be kept open as the primary prayer of the writ petitioner is for bringing the *Maa Kamakhya Temple* and its monuments under Ancient Monuments and Archaeological Sites and Remains Act, 1958 as well as Assam Ancient Monuments and Records Act, 1959.

6] The respondent no.3 is at liberty to file affidavit, if so advised.

7] Upon due consideration of the prayers made and upon perusal of the pleadings referred to by the learned counsel for the parties, let the matter be listed again on 24.07.2024.

8] Further orders as may be required shall be passed on that date.

JUDGE

Comparing Assistant