GAHC010250062026

undefined

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

Case No. : WP(C)/6179/2026

M/S ASHOK TRADERS
A PROPRIETORSHIP FIRM, HAVING ITS OFFICE AT N.H. 37, KHANAPARA, PATORKUCHI, BELTOLA, P.O. AND P.S. BASISTHA, GUWAHATI 781029, DISTRICT KAMRUP METRO, ASSAM. REPRESENTED GY ITS PROPRIETOR SRI ASHOK JAIN AGED ABOUT 60 YEARS, S/O ANAND PRAKASH JAIN, R/O N.H. 37, KHANAPARA, PATORKUCHI, BELTOLA, P.O. AND P.S. BASISTHA, GUWAHATI- 781029, DISTRICT KAMRUP(M), ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE GENERAL MANAGER, NORTH EASTERN FRONTIER RAILWAYS, MALIGAON 781011, GUWAHATI, ASSAM

2:THE CHIEF FREIGHT TRANSPORTATION MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI 781011
DISTRICT KAMRUP METRO
ASSAM

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

4:THE DIRECTOR

GEOLOGY AND MINING
GOVERNMENT OF ASSAM
KAHILIPARA
GUWAHATI 781019

Advocate for the Petitioner : M K BORAH,

Advocate for the Respondent : DY.S.G.I., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 13.11.2026

Heard Mr. M K Borah, learned Counsel for the petitioner. Also heard Mr. D Doley, learned Counsel appearing for the respondent Nos. 1 & 2 and Mr. P Sarma, learned Counsel appearing for the respondent No. 3 and Ms. U Das, learned Addl. Senior Government Advocate appearing for respondent No. 4.

2. The learned Counsel for the parties, at the outset, have submitted that the issue arising in the present writ petition is covered by the judgment and order dated 05.02.2026, passed by this Court in WP(C) No. 442/2023 ***[M/S JYS Construction Vs. The General Manager, NF Railway and 2 Ors]***. Accordingly, it is prayed that the present writ petition be also disposed of in terms of the directions passed by this Court, vide the said judgment and order dated 05.02.2026, passed by this Court in WP(C) No.

442/2023.

3. This Court, in the proceedings of WP(C) No. 442/2023 and other analogous matter, wherein, a challenge was presented to the communication dated 10.02.2022, issued by the respondent No. 3, had on a consideration of the issue arising, therein, drawn the following conclusions :

''9. The challenge in the above noted writ petitions being to the communication dated 10-02-2022, the same being relevant is extracted hereinbelow:

ASSAM MINERAL DEVELOPMENT CORPORATION LTD.

(A Govt. of Assam undertaking)

Regd. Office *CIN-U-14107AS19835GC002045*

Khanij Bhawan, Near Ganesh Mandir *Email: amdcghy@rediffmail.com*

R.P. Road, Dispur, Guwahati - 781006, *GSTIN: 18AACCA8762A1ZU*

Assam GSTIN: 18AACCA8762A1ZU

Ref. No. AMDC/MS/7/2020-21/1051 *Date: 10/02/22*

To,

The Chief Freight Transportation Manager

NF Railway, Maligaon, Guwahati, Assam

Sub: Requirement of NOC for Coal transport by Rail Rake-Regarding

Sir,

With reference to the subject cited above, the undersigned informs you that in Assam jurisdiction, as the AMDCL is the only Govt. agency under Mines & Minerals Department, Govt. of Assam which is involved in the sale of coal, the undersigned requests that before laying of rail rake for transportation of Coal, the TP's/supporting documents/papers submitted by the Intending Coal transporters shall be sent to the office of the undersigned for verification & Issue of NOC Jointly by the office of the undersigned & the Directorate of Geology & Mining, Assam before the transportation

of the Coal by Rail rake from any railway station under the territorial jurisdiction of Assam State.

This is for your information & necessary action.

(N. ANAND, IFS)

Managing Director,

Assam Mineral Development Corn. Ltd.

Ref. No. AMDC/MS/7/2020-21/1052-1053 *Date: 10/02/22*

10. A perusal of the said communication dated 10-02-2022 would reveal that the Managing Director of the respondent No. 3 Corporation, had projected that the respondent No. 3 was the only Govt. agency under the Mines and Mineral Department, Govt. of Assam involved in the sale of coal and accordingly requested the Railway authorities that the transit permits/ supporting documents/ papers submitted by the intending coal transporters, be forwarded to the office of the Managing Director of the respondent No. 3/ Corporation for verification and issue of NOC jointly by the respondent No. 3 and the Directorate of Geology and Mining, Assam before transportation of coal by rail rake from any railway station in the State of Assam. The materials brought on record as well as the submission made by the learned counsel for the parties reveal that the petitioners in the above noted writ petitions have procured coal which they seek to transport through Railway to various other States in the country, from the States of Nagaland and Meghalaya, after complying with the requirements for such procurement as existing in the States of Nagaland and Meghalaya. It is also evident from the materials available on record that before registering a intent from transportation of coal by Railways rakes, the Railway authorities mandatorily require the intending tenderer to furnish certain specified documents. The Railway authority upon perusing the said documents draw satisfaction with regard to the genuineness of the coal sought to be transported through Railways. It is only on genuineness of intents placed that the railway permits the

transportation of the coal to the various other States of the country by placing rakes for the purpose.

11. Article 301 of the Constitution of India mandates for freedom of trade, commerce and intercourse throughout the territory of India. Article 302 mandates that it is only the Parliament which may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest. Further Article 304 mandates that the legislature of a State made by law impose such reasonable restriction on the freedom of trade, commerce and intercourse with or within that State as may be required in public interest.

12. The requirements placed upon the railways by the respondent No. 3 by the communication dated 10-02-2022 in the considered view of this Court places an unreasonable restriction on the freedom of trade, commerce and intercourse between the States. As noticed, hereinabove, the petitioners have projected that they have procured coal from the States of Meghalaya and Nagaland after complying with all requisite provisions of law as existing in the said States and the coal so procured along with all valid documents are sent by road to the State of Assam, for transportation from various Railway heads in the State of Assam for transportation therefrom to various other States in the country by way of Railway rakes. Materials brought on record including the written instructions furnished by Mr. Sharmah, received from the respondent No. 3 does not in any manner indicate that the documents as furnished by the petitioners for transportation of coal procured from the States of Nagaland and Meghalaya are suspected to be not genuine. The only reason assigned by the respondent No. 3 for issuance of the communication dated 10-02-2022 is that along with the coal procured from the States of Meghalaya and Nagaland transported from the various Railway heads in the State of Assam to various other States of the country, Assam origin coal procured from the respondent No. 3 is also included. Accordingly, it is projected that it is only to verify the genuineness of the transit passes produced by the intending tenderers of Assam origin coal procured from the respondent No. 3, that the said communication dated 10-02-

2022 was so issued. Given the said stand taken by the respondent No. 3 before this Court, this Court is of the considered view that the stipulation as contained in the communication dated 10-02-2022 could not have also been made applicable to the coal transported by the Railways on intents placed by the coal transporters who had procured such coals from the States of Nagaland and Meghalaya.

13. The restrictions now sought to be imposed on trade, commerce and intercourse between the States by the respondent No. 3, which is only an autonomous body under the Govt. of Assam, is in violation of Article 304(b) of the Constitution of India. Article 304(b) of the Constitution of India having laid down that it is only the Legislature of a State which may by law impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest, such restrictions could not be placed for any reason by the respondent No. 3. Accordingly, this Court is of the view that the stipulation as contained in the communication dated 10-02-2022 is clearly not sustainable.

14. The respondent No. 3 could not have required the Railway authorities to hold up the transportation of coals basing on intents by various coal traders including the petitioners in the above noted writ petitions who had placed the said intent for coal, which admittedly were procured from the States other than the State of Assam. This Court is of the considered view that the stipulations made in the communication dated 10-02-2022 amounts to an unreasonable restriction on the freedom of trade, commerce and intercourse as set out in the Constitution of India.

15. In view of the above discussions, this Court is of the considered view that the communication dated 10-02-2022 would not be sustainable and accordingly, the same is set aside. The setting aside of the communication dated 10-02-2022 would not prevent the respondent No. 3 to put in place measures for protection of its interest with regard to the transportation of Assam origin coal by putting in place provisions in strict accordance with law holding the field."

4. The challenge in the present writ petition being also to the impugned communication dated 10.02.2022, this Court is of the considered view that the conclusions drawn and the directions passed by the judgment and order 05.02.2026, in WP(C) No. 442/2023 and other analogous matters, would also cover the issue arising in the present writ petition.

5. In view of the above conclusions, the present writ petition is disposed of in terms of the directions passed by this Court, vide the said judgment and order dated 05.02.2026, passed in WP(C) No. 442/2023 and other analogous matters.

JUDGE

Comparing Assistant