GAHC010092392026

2026:GAU-AS:6605

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

Case No. : WP(C)/2476/2026

THE MANAGEMENT OF MAHAKALI TEA ESTATE
, P.O.- HOOGRIJAN, DISTRICTTINSUKIA, ASSAM. ONE OF THE TEA ESTATES OF M/S LUXMI TEA CO PVT. LTD. HAVING ITS REGISTERED OFFICE AT KISHORE BHAWAN, 17 RN MUKHERJEE ROAD, KOLKATTA- 1 REPRESENTED BY ITS GROUP HEAD - LEGAL COMPANY SECRETARY MS. KALYANI BHOWMICK, D/O ASHIM BHOWMICK, AGED ABOUT 40 YEARS

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY, LABOUR WELFARE DEPARTMENT, DISPUR, GUWAHATI - 06.

2:THE ASSTT LABOUR COMMISSIONER

TINSUKIA
DISTRICT- TINSUKIA
ASSAM
PIN- 786125

3:THE SECRETARY

ASSAM CHAH KARAMCHARI SANGHA
TINGRI CIRCLE
BORDOBI
P.O.- HOOGRIJAN
DISTRICTTINSUKIA
ASSA

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. K. Das, Advocate
: Mr. S. Das, Advocate

For the Respondent(s) : Mr. M. Chetia, Government Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **13.05.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. K. Das, the learned counsel appearing on behalf of the Petitioner and Mr. M. Chetia, the learned Government Advocate appearing on behalf of all the Respondent Nos. 1 and 2.

2. Taking into account the order which this court proposes to pass, this Court dispenses with the service upon the Respondent No.3.

3. The Petitioner herein has assailed the order dated 20.04.2026 passed by the learned Presiding Officer, Industrial Tribunal, Dibrugarh in Reference Case No. 02/2021.

4. A perusal of the said order reveals that the learned Industrial Tribunal, Dibrugarh, was perturbed by the actions on the part of the Petitioner in delaying the reference proceedings on one hand and on the other hand, having not filed any application seeking clarification before this Court. The said aspect prima facie appears to be correct as the application seeking clarification was filed on 20.04.2026 before this Court as submitted by the learned counsel for the Petitioner that too when the learned Industrial Tribunal directed the Petitioner to seek clarification on 16.10.2025.

5. Be that as it may, this Court finds it very pertinent to take note of the brief facts which led to the filing of the instant writ petition.

6. An industrial dispute arose in Mahakali Tea Estate on account of changing the existing service conditions and discontinuance of pensionary benefits enjoyed by the retired staff employees with effect from 15.09.2020. Resultantly, a notification was issued on 08.03.2021 by the Government of Assam notifying in terms of reference under Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act of 1947'). The terms of reference were mentioned in the Schedule to the notification dated 08.03.2021. The terms of reference as mentioned in the Schedule to the notification dated

08.03.2021 being relevant are reproduced herein under:

> "*1. Whether the management of Mahakali Tea Estate is justified to notify the notice under Section 9A of the Industrial Dispute Act, 1947 for changing of existing service condition and discontinuance of pensionary benefit enjoyed by the retired staff employees w.e.f. 15-09-2020?*
>
> *2. If not whether the staff employees of Mahakali Tea Estate can enjoy the existing pension benefit as per agreement dated 11.05.1990?*
>
> *3. If not, what any other relief is entitled in lieu thereof?"*

7. It further appears that the Petitioner Tea Estate had filed a writ petition being WP(C) No.5586/2021 challenging an order dated 06.09.2021 passed by the learned Industrial Tribunal, Dibrugarh in Reference Case No.2/2021. It is also relevant to take note of that the learned Coordinate Bench of this Court disposed of the said writ petition filed by the Petitioner along with another writ petition being WP(C) No. 5574/2021.

8. At this stage, it is relevant to observe that WP(C) No.5574/2021 was also filed by another Petitioner challenging a similar order dated 06.09.2021 passed in Reference Case No.1/2021 by the learned Industrial Tribunal, Dibrugarh. The records further reveal that though there was a challenge to the

order dated 06.09.2021, the Petitioner had given up the challenge and limited its prayer before the learned Coordinate Bench thereby seeking a direction upon the learned Industrial Tribunal, Dibrugarh to decide on the question of the binding affect of the agreement vis-à-vis Section 18 of the Act of 1947. The learned Coordinate Bench of this Court vide an order dated 19.09.2022 disposed of both the writ petitions being WP(C) No.5574/2021 and WP(C) No.5586/2021 by a common order thereby directing the learned Industrial Tribunal, Dibrugarh to decide on the question of applicability of Section 18 of the Act of 1947 vis-à-vis the binding affect of the agreement dated 06.10.1969.

9. In accordance with the said directions passed by the learned Coordinate Bench of this Court in the order dated 19.09.2022 in WP(C) No.5574/2021 and WP(C) No.5586/2021, the learned Industrial Tribunal, Dibrugarh took steps for deciding the issue of applicability of Section 18 of the Act of 1947 to the Agreement dated 06.10.1969. At that stage, an application was filed almost 3 (three) years thereafter by the Petitioner stating inter alia that there was no agreement dated 06.10.1969 between the Petitioner Tea Estate and the Respondent No.3 and as such, there appeared to be a clerical error in the order dated 19.09.2022 passed by the learned Coordinate Bench of this Court in WP(C) No.5586/2021.

10. When the said aspect was brought to the attention, the learned Industrial Tribunal in the right earnest passed an order on 08.09.2025 seeking guidance from the Registrar (Judicial), Gauhati High Court as to whether the agreement dated 06.10.1969 mentioned in Paragraph No.9 of the order dated 19.09.2022 in WP(C) No.5586/2021 is a result of some clerical error, or if any material was placed by the parties before this Court showing that the said agreement was entered into by the predecessor-in-interest of the management of Mahakali Tea Estate.

11. It appears that on 03.10.2025, the Registrar (Judicial), Gauhati High Court duly intimated the learned Presiding Officer of the Industrial Tribunal, Dibrugarh, that it would not be competent on the part of the Registrar (Judicial), Gauhati High Court to give such a clarification.

12. On 16.10.2025, the learned Industrial Tribunal, Dibrugarh, thereupon passed an order asking the Petitioner to seek necessary clarification from the proper authorities to clear the confusion. The records reveal that the said reference proceedings was thereupon fixed on 25.11.2025, 08.12.2025, 07.01.2026 and 23.02.2026. But no steps were taken by the Petitioner to seek the clarification from this Court.

13. It is also very pertinent to take note of that on account of the clarification not being provided, the reference proceedings was also stalled. It may not be out of place to observe that it is the legislative mandate that the reference proceedings is required to be disposed of as early as possible and preferably within a period of 6 (six) months. However, on account of the delay, the said reference proceedings which was initiated sometime in the year 2021 on the basis of a notification have already been delayed by almost 5 (five) years.

14. It is under such circumstances, when on 20.04.2026, the matter was taken up, there was no clarification produced from this Court rather, the company representative who was present pursuant to the order dated 23.03.2026 stated that steps would be taken for seeking necessary clarification in the matter from the Gauhati High Court.

15. It has been submitted by the learned counsel appearing on behalf of the Petitioner that it was only pursuant to the order dated 20.04.2026, an application has been filed and it has been recently registered and numbered as I.A.(Civil) No.1510/2026. It however appears that the learned Industrial Tribunal, Dibrugarh, being perturbed by the inaction on the part of the management of the

Petitioner, passed the order dated 20.04.2026 thereby directing that the Luxmi Tea Company Private Limited shall submit the proper and authenticated documents regarding compliance of Sections 77 and 78 of the Companies Act, 2013 on 18.05.2026 along with certified copies of the register of charge kept under Section 85 of the Companies Act, 2013 in view of the agreement for sale of the specified assets dated 22.04.2019. It was also directed that if there is a failure to do so, a cost of Rs.50,000/- shall be imposed. It is under such circumstances the Petitioner has approached this Court by filing the present petition.

16. This Court has heard the learned counsels appearing on behalf of the Petitioner as well as the Respondent Authorities.

17. It has to be taken note of that it was at the instance of the Petitioner that the learned Coordinate Bench of this Court vide an order dated 19.09.2022 passed in WP(C) No.5586/2021, directed the learned Industrial Tribunal, Dibrugarh, to decide the question of applicability of Section 18 of the Act of 1947 vis-à-vis the binding affect of the agreement dated 06.10.1969. It is the case of the Petitioner that there is no agreement dated 06.10.1969 and therefore, in that view of the matter, the directions so passed by the learned Coordinate Bench of this Court for deciding the

applicability of Section 18 of the Act of 1947 vis-à-vis the binding affect of the agreement dated 06.10.1969 cannot be complied with by the learned Industrial Tribunal.

18. Under such circumstances, this Court therefore directs the learned Industrial Tribunal, Dibrugarh, to proceed to dispose of the Reference proceedings being Reference Case No.2/2021 on its merits.

19. In that view of the matter, there would be no requirement for compliance to the order dated 20.04.2026 passed by the learned Industrial Tribunal, Dibrugarh inasmuch as, the order dated 20.04.2026 was passed to effect compliance to the order dated 19.09.2022 in WP(C) No.5582/2021 which had become redundant in view of the observations above.

20. With above observations and direction, the instant writ petition stands disposed of.

JUDGE

Bijoy Saha

Digitally signed by Bijoy Saha
Date: 2026.05.15 19:58:48 +05'30'

Comparing Assistant