

GAHC040002972021



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

Case No. : CRP 7/2021

1:Asem Tayeng
S/o Late Ningkong Tayeng, resident of Mebo (Romdum), PO/PS Mebo, East Siang
District, Arunachal Pradesh

VERSUS

1:Omin Megu and 2 Ors.
Gaon Burah, Bodak village, PO/PS Mebo, East Siang District, AP

4:Tanggom Tayeng
President
Bodak welfare Committee
Bodak village
PO/PS Mebo
East Siang District
Arunachal Pradesh

5:Tabeng Megu
Secretary
Bodak Welfare Committee
Bodak village
PO/PS Mebo
East Siang District
A

Advocate for the Petitioner : Ninnong Ratan

Advocate for the Respondent : Ajin Apang, Sr. Advocate

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 08.05.2023

Heard Mr. N. Ratan, learned counsel for the petitioner. Also heard Mr. A. Apang, learned senior counsel assisted by Ms. N. Nopi, learned counsel representing the respondents no. 3 to 5.

By this application, under Article 227 of the Constitution of India *read with* Section 50 of the Assam Frontier (Administration of Justice) Regulation, 1945, the petitioner has assailed the order dated 20.12.2019, 04.02.2021 and letter dated 16.02.2021 passed/issued by the Additional Deputy Commissioner, Mebo, East Siang District, directing the petitioner to abide by the Kebang decisions dated 18.10.2017 and 07.12.2019 and also dismissed the appeal petition dated 08.02.2021 filed by the petitioner.

Bereft of unnecessary facts, the facts for the purpose of the present proceeding in nutshell is that a dispute over the land called *Sibot Morang* at Bodak village has arisen between the petitioner and the respondents no. 3 to 5. In order to resolve the dispute, the village authority under the Chairmanship of Shri Tikeng Perme, Gaon Burah, Ayeng village, a Kebang was conducted on 07.12.2018 in compliance to the order dated 04.02.2019, issued by the Additional Deputy Commissioner, Mebo, East Siang District. The said decision was in favour of the respondents no. 3 to 5. Being aggrieved, the petitioner has approached the jurisdictional Additional Deputy

Commissioner, Mebo, East Siang District by filing the appeal petition on 08.02.2021.

The Additional Deputy Commissioner, Mebo, East Siang District, vide impugned letter dated 16.02.2021, addressed to the petitioner informing that the appeal petition has been rejected on the ground that the matter has been examined at length and the Additional Deputy Commissioner, Mebo has no scope to review the subject de novo.

It is noted that before the Kebang decision dated 07.12.2019, there appears to have been another Kebang, which was held on 18.10.2017.

Mr. Ratan, learned counsel for the petitioner submits that the impugned letter dated 16.02.2021, is a cryptic one whereby the appeal petition of the petitioner has been rejected without following the relevant provisions of law relating to appeal. He submits that the so called Kebang decision dated 18.10.2017, which the Additional Deputy Commissioner, Mebo has relied upon in addition to the Kebang decision dated 07.12.2019 is not at all related to the petitioner and cannot be drawn for rejecting the appeal of the petitioner. He further submits that the impugned orders dated 20.12.2019 and 04.02.2021 by which the Additional Deputy Commissioner, Mebo, repeatedly had directed the petitioner to comply with the aforesaid 2 Kebang decisions without any cogent reasons amounts to coercion depriving the right of hearing to the petitioner. Therefore, the impugned orders dated 20.12.2019, 04.02.2021 and letter dated 16.02.2021 are not sustainable in law and liable to be set aside and quashed.

Mr. A. Apang, learned Senior Advocate appearing for respondents no. 3 to 5 submits that any order that would have been passed by the authority be

as per the law. He submits that he has no cause to argue; if the Kebang decision dated 07.12.2019 is not interfered with by this Hon'ble Court, however, by now, after the enactment of Civil Courts Act, 2021, an appropriate remedy is clearly provided under the Act; therefore, petitioner may approach the appropriate forum regard being had to the fact that the petitioner has wrongly approached the Additional Deputy Commissioner, Mebo instead of Deputy Commissioner, East Siang District, Pasighat.

I have considered the submissions advanced by the learned counsels appearing for the parties.

On consideration of the impugned orders dated 20.12.2019, 04.02.2021, this Court finds that there have been various correspondences between the Additional Deputy Commissioner, Mebo and the petitioner before the appeal was filed by the petitioner on 08.02.2021. On the perusal of the impugned letter dated 16.02.2021, this Court is of the view that the Additional Deputy Commissioner, Mebo has failed to consider the appeal dated 08.02.2021 as required under the law. Resultantly, the petitioner has been seemingly deprived of hearing.

In view of the above, the impugned orders dated 20.12.2019; 04.02.2021 and the letter dated 16.02.2021 are hereby set aside.

Accordingly, the present petition is allowed.

However, liberty is granted to the petitioner to approach the appropriate forum as may be permitted under the law, if aggrieved by the Kebang decision dated 07.12.2019.

The civil revision petition is disposed of in terms above.

JUDGE

Comparing Assistant