

GAHC010125492020



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

Case No. : WP(C)/3602/2020

GOBARDHARA ANCHALIK PANCHAYAT
REP. BY ITS PRESIDENT SMT. SHIBANI BARMAN, W/O. SRI PRADIP
BARMAN, VILL. SATHBONIRTUP, P.O. KALAHBHANGA, P.S. BARPETA
ROAD, DIST. BARPETA, ASSAM, PIN-781315.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
TRANSPORT DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF INLAND WATER TRANSPORT

(IWT) ASSAM ULUBARI
GUWAHATI-07.

3:THE EXECUTIVE ENGINEER

INLAND WATER TRANSPORT (IWT) ULUBARI
GUWAHATI-781007.

4:THE DY. COMMISSIONER BARPETA

P.O. AND DIST. BARPETA
ASSAM
PIN-781301.

5:THE CIRCLE OFFICER

BARNAGAR REVENUE CIRCLE
SORBHOG
BARPETA

P.O. SORBHOG
DIST. BARPETA
PIN-781317.

6:THE EXECUTIVE OFFICER

GOBARDHARA ANCHALIK PANCHAYAT
BARPETA ROAD
P.O. BARPETA ROAD
DIST. BARPETA
PIN-781315

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/529/2018

GOBARDHANA ANCHALIK PANCHAYAT AND ANR
REP. BY ITS PRESIDENT
HADAITUL ISLAM
S/O ABDUL SALAM
VILL- BHATMARI
P.O. SUKRUNGBARI
DIST. BARPETA

2: CHAKCHAKA ANCHALIK PANCHAYAT
REP. BY ITS PRESIDENT KALYANI DAS
AGED ABOUT 45 YEARS

W/O KANDARPA DAS
VILL- DAKHIN GANAK GARI

P.O. SORBHOG
DIST. BARPETA
ASSAM
VERSUS

THE STATE OF ASSAM AND 7 ORS
THROUGH THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT

DISPUR

GUWAHATI

2:THE DIRECTOR OF INLAND WATER TRANSPORT
ASSAM

GUWAHATI- 781007

3:THE EXECUTIVE ENGINEER

IWT
DIVISION

ULUBARI

GUWAHATI - 781007

4:THE DEPUTY COMMISSIONER

BARPETA

P.O. AND P.S. BARPETA

DIST. BARPETA

ASSAM

5:THE CIRCLE OFFICER

BARNAGAR REVENUE CIRCLE

SORBHOG

BARPETA

P.O. AND P.S. SORBHOG

DIST. BARPETA

ASSAM

PIN - 781317

6:THE EXECUTIVE OFFICER

GOBARDHANA ANCHALIK PANCHAYAT

BARPETA ROAD

P.O. AND P.S. BARPETA

DIST. BARPETA

ASSAM

7:THE EXECUTIVE OFFICER

CHAKCHAKA ANCHALIK PANCHAYAT

P.O. AND P.S. SORBHOG

DIST. BARPETA

ASSAM

PIN- 781317

8:FAIZAN NESSA

W/O- JALAL UDDIN AHMED

AGED ABOUT- 32 YEARS

R/O AND VILL.- NICHKA

P.O.- BARPETA ROAD
DIST.- BARPETA
ASSAM PIN.- 781315.

Advocate for : MR M AHMED

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 7 ORS

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

07.02.2023

Both these writ petitions being connected are taken up together for disposal by this common order.

I have heard Shri A. Hussain, learned counsel for the petitioners. I have also heard Ms. M.D. Bora, learned Standing Counsel, Transport Department as well as Shri S. Dutta and Shri N. Borah, learned Standing Counsel, P&RD Department. Shri R. Talukdar, learned State Counsel is also present.

The projected case is that a decision was taken by the Inland Water Transport Department, Government of Assam on 18.12.2013 to take two Parghats namely Pub Khundnabari (Nichuka) and Zamadarbari Pather under its jurisdiction.

The aforesaid decision was the subject matter of challenge in 3 numbers of writ petitions before this Court in which vide an order dated 12.06.2017, the matter was remanded for a fresh consideration. On 25.09.2017, an order was passed by the Commissioner & Secretary of the Department by which taking into account the report of the Circle Officer, the aforesaid two Parghats were confirmed to be under the jurisdiction of the Government.

It is the case of the petitioners that subsequently, another report was furnished by the Circle Officer on 09.11.2017 as per which the earlier report of the Circle Officer based upon which the order dated 25.09.2017 was passed was held to be erroneous. The petitioners have submitted that accordingly the matter is required to be given a relook by taking into account the fresh report dated 09.11.2017.

In WP(C)/3602/2020, the challenges are with regard to settlement done by the Government over the two aforesaid Parghats. However, Ms. Bora, the learned Standing Counsel, IWT submits that the term of settlement has already come to an end and for all practical purposes, the writ petition being WP(C)/3602/2020 has become infructuous. The said petition is accordingly dismissed as infructuous.

So far as WP(C)/529/2018 is concerned, it transpires that till now a fresh report dated 09.11.2017 is yet to be considered.

In that view of the matter, the writ petition stands closed by directing the Transport Department, Government of Assam to consider the fresh report of 09.11.2017 or any other subsequent report which may be called in the meantime to come to a definite finding with regard to the matter as to who would have jurisdiction over the two Parghats in question. The aforesaid exercise may be completed expeditiously and preferably within a period of 3 months from today. It is needless to mention that in case the two Parghats are held to be within the jurisdiction of the concerned Anchalik Panchayat, the settlement of the said would be made by the concerned Anchalik Panchayats. However, if it is held that the two Parghats are under the jurisdiction of IWT, the Department would initiate the settlement process.

The petitioners are at liberty to submit certified copy of this order along with a copy of the writ petition to the appropriate authorities to do the needful in terms of the same.

JUDGE

Comparing Assistant