

GAHC010049322023



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

Case No. : Cont.Cas(C)/119/2023

BIDUT BAKSHI @ BIDYUT BAKSHI
S/O- LATE NARENDRA CHANDRA BAKSHI, VILL. NO. 2 CHATIANGURI, P.O.
CHATIANGURI, P.S. BIJNI, DIST. CHIRANG, BTAD, ASSAM, PIN- 783390.

VERSUS

MARIA TANIM
THE CIRCLE OFFICER, BIJNI REVENUE CIRCLE, BIJNI, P.O. AND P.S. BIJNI,
DIST. CHIRANG, BTAD, ASSAM, PIN- 783390.

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 10-03-2023

Heard Mr. K.R. Patgiri, learned counsel for the applicant.

2. The applicant, as the writ petitioner, had earlier preferred a writ petition, W.P.[C] no. 2103/2022 aggrieved by inaction on the part of the respondent authorities in the District Administration, Chirang for not bringing a process of

demarcation in respect of a plot of land measuring 3 Bighas, 4 Kathas and 12 Lessas [03B-04K-12L], covered by Dag no. 258 & Periodic Patta no. 89, located at Village no. 2 Chatianguri [Kadamtola] under Bijni Revenue Circle, District – Chirang [‘the subject-plot’, for short] to its logical end. When the writ petition was taken up for consideration on 14.09.2022, the Court noticing that the demarcation is a notified public service under the Assam Right to Public Services Act, 2012, directed the Circle Officer, Bijni Revenue Circle to entertain the application of the petitioner dated 14.09.2021 for demarcation in respect of the subject-plot and to pass a reasoned order thereon by adhering to the procedure laid down in the Assam Right to Public Services Act, 2012. Observing so, the writ petition was disposed of with the further observation that for the purpose of demarcation, notices, if necessary, may also be issued to any other affected persons who, according to the Circle Officer, Bijni Revenue Circle, would require hearing under the law. Subsequent to the order dated 14.09.2022 [supra], the petitioner brought the order dated 14.09.2022 [supra] to the notice of the Circle Officer, Bijni Revenue Circle by a representation dated 29.09.2022. On receipt of the order dated 14.09.2022 and the representation dated 29.09.2022 of the petitioner, the Circle Officer, Bijni Revenue Circle initiated a process of demarcation by issuing notices to the concerned stakeholders on 09.11.2022 calling for their appearance on 16.11.2022. Subsequently, notices, dated 28.11.2022 & dated 01.12.2022, were issued to the stakeholders by the Circle Officer, Bijni Revenue Circle calling for their appearance on 01.12.2022 and 03.12.2022 respectively. As the process of demarcation has not been brought to its logical conclusion by the Circle Officer, Bijni Revenue Circle till date, the petitioner has preferred the instant application alleging non-compliance of the order dated 14.09.2022 passed in the writ petition, W.P.[C] no. 2103/2022.

3. As has been noted above, demarcation is a notified public service under the Assam Right to Public Services Act, 2012. Section 8[1] of the Assam Right to Public Services Act, 2012 has provided that any person who does not get notified services within the stipulated time limit specified under Section 4 or is aggrieved by a decision of the Designated Public Servant, may within 30 [thirty] days from the expiry of the stipulated period or from the date of receipt of such decision, as the case may be, prefer an appeal to the Appellate Authority notified under sub-section [3] of Section [4] of the Assam Right to Public Services Act, 2012. It is further provided that the Appellate Authority may admit the appeal after expiry of 30 [thirty] days, if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

4. As per the Office Memorandum bearing no. RRG.18/2017/Pt/163 dated 21.12.2020, the Designated Public Servant under Section 3[c] in case of a notified service, 'demarcation' is the Circle Officer and the Designated Appellate Authority as per Section 3[a] of the Act is the Additional Deputy Commissioner. Since a statutory remedy of appeal is available for the petitioner if he is aggrieved for not getting the notified service within the stipulated time limit specified under Section 4 of the Assam Right to Public Services Act, 2012, this application is not entertained. Liberty stands reserved to the petitioner to avail the remedy of appeal under Section 8[1] of the Assam Right to Public Services Act, 2012.

JUDGE

Comparing Assistant