

GAHC010076582023



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

Case No. : WP(C)/1999/2023

NITON BORO
S/O RABI RAM BORO,
R/O HAZARAGAON, PHAHURABARI, P.S.- TAMULPUR, DIST.- BAKSA, PIN-
781367.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPTT.OF
PANCHAYAT AND RURAL DEVELOPMENT, DISPUR, GUWAHATI- 06.

2:THE PRINCIPAL SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN- 781078.

3:THE JOINT SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN- 781078.

4:THE DEPUTY COMMISSIONER
BAKSA
DIST.- BAKSA
PIN- 781333.

5:THE SUPERINTENDENT OF POLICE
BAKSA
DIST.- BAKSA
PIN- 781333.

6:THE BLOCK DEVELOPMENT OFFICER

TAMULPUR DEVELOPMENT BLOCK
TAMULPUR
PIN- 781367.

7:THE OFFICER-IN-CHARGE
KUMARIKATA POLICE OUTPOST
KUNARIKATA
TAMULPUR
BTC
PIN- 781360

Advocate for the Petitioner : MR. M GOGOI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

10.04.2023

Heard Mr. M. Gogoi, learned counsel for the petitioner; Mr. S. Dutta, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent no. 1; Mr. P. Nayak, learned Standing Counsel, BTC for the respondent nos. 2, 3 & 6; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 4, 5 & 7.

2. Having regard to the issue involved in the writ petition and as agreed to by the learned counsel for the parties, the writ petition is taken up for disposal at the motion stage itself.

3. The petitioner has instituted the instant writ petition under Article 226 of the Constitution of India with the grievance that he has been restrained by the respondent authorities from operating an animal market, which is part of Kumarikata Weekly Market settled in his favour by the respondent BTC authorities by order of settlement dated 09.09.2022.

4. The case projected by the petitioner, in brief, is that pursuant to a competitive bidding

process undertaken for settlement of a number of markets including a market named Kumarikata Weekly Market [‘the Market’, for short], came to be settled in favour of the petitioner by the respondent BTC authorities by an order of settlement dated 09.09.2022 at his offered bid value of Rs. 6,07,000/- for the year : 2022-2023 w.e.f. 01.07.2022. The decision to settle the Market in favour of the petitioner was taken pursuant to a decision taken by the Market Settlement Committee in its meeting held on 30.06.2022. Pursuant to the order of settlement dated 09.09.2022, the petitioner stated to have deposited the amount of Rs. 6,07,000/- by a demand draft dated 24.06.2022. Pursuant to the order of settlement dated 09.09.2022, an agreement was also executed between the respondent no. 6 and the petitioner. Immediately after the execution of the agreement, the petitioner started operating the Market.

4.1. According to the petitioner, the Market also consisted of an animal market treading in cattle. On 27.10.2022, the respondent no. 7 along with a team of police personnel came to the Market and verbally ordered the petitioner to close the operation of the animal market. Though no written order was handed over to the petitioner, the petitioner had to stop running the animal market on the basis of the verbal order of the respondent no. 7 in the apprehension that in the event the verbal order is not followed, coercive and adverse action might be taken against him. Ventilating his grievances of not allowing to operate the animal market which is part of the Market settled in his favour for a period of 1 [one] year w.e.f. 01.07.2022, the petitioner stated to have submitted a representation before the respondent no. 4 on 28.02.2023 requesting the respondent no. 4 to allow him to operate the animal market which is part of the Market, that is, Kumarikata Weekly Market. Aggrieved by the non-disposal of the representation dated 28.02.2023, the petitioner has approached this Court by the instant writ petition seeking the leave, mentioned above.

5. Mr. Dutta, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department 1; Mr. Nayak, learned Standing Counsel, BTC; and Ms. Barman, learned Junior Government Advocate, Assam have submitted that to operate an animal market, requisite permission is to be obtained from the competitive authority defined under the Assam Cattle Preservation Act, 2021, as amended, and Assam Cattle Preservation Rules, 2022 read with

the Notification bearing no. PLB.78/2021/411 dated 25.07.2022 whereby the State Government has delegated the powers and functions under Section 10 of the Assam Cattle Preservation Act, 2021, as amended, to the District Magistrate or his authorised representative.

6. Having regard to the provisions of the Assam Cattle Preservation Act, 2021, as amended, and Assam Cattle Preservation Rules, 2022 read with the Notification bearing no. PLB.78/2021/411 dated 25.07.2022 and considering the fact that the petitioner has already approached the respondent no. 4 by way of a representation dated 28.02.2023, which is stated to be pending, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent no. 4 to take the representation submitted by the petitioner on 28.02.2023 before him, on board and after consideration of the same in terms of the provisions and the Assam Cattle Preservation Act, 2021, as amended, and Assam Cattle Preservation Rules, 2022 read with the Notification bearing no. PLB.78/2021/411 dated 25.07.2022 dispose of the representation containing the prayer to allow the petitioner to operate the animal market in accordance with law by passing a speaking order as expeditiously as possible, within an outer limit of 3 [three] weeks from the date of receipt of a copy of this order. It is accordingly directed. The respondent no. 4 will be at liberty to afford personal hearing to the petitioner, if found necessary. The order to be passed by the respondent no. 4 shall be communicated to the petitioner forthwith thereafter. It is, however, made clear that the respondent no. 4 shall consider the representation of the petitioner dated 28.02.2023 on merits. This Court has not made that any observation as regards the running of the animal market which is part of the Market named Kumarikata Weekly Market.

7. This order disposes of the writ petition.

JUDGE

Comparing Assistant