

GAHC010091272021



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

Case No. : WP(C)/3022/2021

SATTAR ALI SK
S/O DELDAR ALI, VILL- KHORAGHAT, PO BARKANDA, PS BAGRIBARI,
DIST. KOKRAJHAR, BTR, ASSAM, PIN-783349

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE BODOLAND TERRITORIAL COUNCIL
REP. BY THE PRINCIPAL SECRETARY
BTR
KOKRAJHAR
ASSAM
PIN- 783370

3:THE SECRETARY
DEPARTMENT OF MARKET AND CARE
BTC
KOKRAJHAR
ASSAM
PIN-783370

4:THE CHAIRMAN
MARKET SETTLEMENT COMMITTEE
BODOLAND TERRITORIAL REGION
KOKRAJHAR
ASSAM
PIN-783370

5:THE DEPUTY COMMISSIONER
KOKRAJHAR

BTR
ASSAM
PIN-783370

6:THE EXECUTIVE OFFICER CUM BLOCK DEVELOPMENT OFFICER
MAHAMAYA DEVELOPMENT BLOCK
BAGRIBARI
ASSAM
PIN-78334

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

30.01.2023

Heard Mr. H.R. Ahmed, learned counsel for the petitioner; Mr. N.K. Deb Nath, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent no. 1, Mr. S. Bora, learned Standing Counsel, BTC for the respondent nos. 2, 3, 4 & 6; and Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent no. 5.

2. The petitioner was the settlement holder/lessee of Salbari Hat & Gohat [‘the Market’, for short] under the jurisdiction of the respondent BTC authorities for a period of 1 [one] year during the year : 2018-2019. By a Settlement Order dated 01.07.2018, the Market was settled in favour of the petitioner for the period from 01.07.2018 to 30.06.2019 at a settlement amount of Rs. 10,64,000/-. By a subsequent Order dated 04.07.2019 passed by the respondent no. 6, the petitioner was allowed to collect tax/tolls etc. in the Market with effect from 04.07.2019 for the year : 2019-2020 until further orders. The petitioner continued to operate the Market as the lessee till the

emergence of Covid-19 pandemic. Due to uncertainty prevailing on account of emergence and continuance of Covid-19, the respondent BTC authorities took a decision to allow all the then existing lessees of the Markets to continue to operate them, as floating of tenders for the Markets was found not feasible at that stage. Such decision was taken by the BTC in view of a decision taken by the State Government in the Panchayat & Rural Development Department in similar manner by an Office Order no. PDA.403/2018/30 dated 29.05.2020. As a result, the petitioner as the lessee of the Market was allowed to continue till further order and subject to change in future situations.

3. Mr. Ahmed, learned counsel for the petitioner has submitted that the petitioner was stopped from operating the Market in the year 2021. As the petitioner had suffered losses during the previous years due to various factors including Covid-19 pandemic, he submitted a Representation before the respondent no.6 on 01.06.2021 to allow him to operate the Market for the next settlement period, that is, 2021-2022 by acceptance of requisite *Kist* money.

4. Mr. Bora, learned Standing Counsel, BTC has submitted that after the petitioner was stopped from operating the Market during the year 2021, the petitioner was not allowed to operate the Market any further.

5. It is submitted at the Bar that the Market had been settled in favour of another lessee in the year 2021, following a bidding process. In view of settlement of the Market for the year 2021 onwards in favour of the successful bidder in a bidding process undertaken for the purpose, there is no necessity to adjudicate on the aspect wherein the relief sought for by the petitioner was to allow him to operate the Market for the next settlement year : 2021-2022 as the said prayer has become redundant.

6. Mr. Ahmed, learned counsel for the petitioner has submitted that since the petitioner had suffered losses in operating the Market during the period he was allowed to operate the same, he may be allowed to make a representation before the respondent BTC authorities seeking a remission. Mr. Bora, learned Standing Counsel, BTC has submitted that it is open for the petitioner to make such a representation, but the same must be accompanied by valid supporting documents. Having heard the learned counsel for the parties and taking note of the broad consensus seemed to have arrived at regarding the issues involved in the writ petition, I am of the considered view that there is no live issue left for consideration in this writ petition. The writ petition is, therefore, closed. The petitioner may approach the respondent authorities in the BTC with regard to his prayer for remission by submitting a Representation, if so advised.

JUDGE

Comparing Assistant