

GAHC010145942023



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

Case No. : WP(C)/3855/2023

MD. DILWAR HUSSAIN
S/O LATE JOINAL ABDIN
VILLAGE TEZPUR NEPALI PATTI, WARD NO. 13, PO AND PS TEZPUR, DIST
SONITPUR, ASSAM 784001

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOUSING AND URBAN AFFAIRS, AND DIRECTORATE OF
TOWN AND PLANNING DISPUR GUWAHATI 781006

2:THE DIRECTOR
HOUSING AND URBAN AFFAIRS
AND DIRECTORATE OF TOWN AND PLANNING DISPUR GUWAHATI 781006

3:THE TEZPUR MUNICIPAL BOARD
REPRESENTED BY CHAIRMAN
MAHABHAIRAB
TEZPUR
ASSAM 784001

4:THE CHAIRMAN
TEZPUR MUNICIPAL BOARD
MAHABHAIRAB
TEZPUR
ASSAM 784001

5:THE EXECUTIVE OFFICER

TEZPUR MUNICIPAL BOARD
MAHABHAIRAB

TEZPUR
ASSAM 784001

6:THE DEPUTY ENGINEER
TEZPUR MUNICIPAL BOARD
MAHABHAIRAB
TEZPUR
ASSAM 784001

7:THE DEPUTY DIRECTOR

TOWN AND COUNTRY PLANNING
MAHABHAIRAB
TEZPUR
ASSAM 784001

8:MD. ANUWARUL HAQUE
S/O LATE HAZI RASIDUL HAQUE

RESIDENT OF TEZPUR NEPALI PATTI
WARD NO. 13
PO AND PS TEZPUR
DIST SONITPUR ASSAM 784001

9:MD. MOINUL HOQUE
S/O LATE HAZI RASIDUL HAQUE

RESIDENT OF TEZPUR NEPALI PATTI
WARD NO. 13
PO AND PS TEZPUR
DIST SONITPUR ASSAM 78400

Advocate for the Petitioner : MR. S SAHU

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 30.06.2023

Heard Mr. S. Sahu, learned counsel for the petitioner as well as Mr. K.

Gogoi, learned Addl. Senior Govt. Advocate appearing for the respondent nos.1, 2, 5 and 7.

2. In view of the order proposed to be passed, issuance of notice on the respondents is dispensed with.

3. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed a communication dated 14.02.2023 issued by the Chairman, Tezpur Municipal Board (respondent no.4) thereby directing the petitioner to stop construction within 3 days in view of the complaint made by the neighbor namely, Md. Anuwarul Hoque (respondent no.8).

4. It is projected that he is carrying construction in terms of NOC for construction dated 26.10.2022. It is also projected that pursuant to receipt of the notice dated 14.02.2023, the petitioner had submitted a representation/objection dated 20.03.2023 before the Chairman, Tezpur Municipal Board which has not yet been disposed of.

5. Taking note of the projection made by the petitioner that against the stop construction notice dated 20.02.2023, the petitioner had submitted a written objection dated 20.02.2023, the Court is inclined to dispose of the writ petition at the motion stage without issuance of notice on the respondents by directing the respondent no.4 to carry out a joint inspection of the construction being made by the petitioner in the presence of the petitioner as well as the objector, Md. Anuwarul Hoque (respondent no.8) and respondent no.9, namely Md. Moinul Hoque.

6. The Chairman, Tezpur Municipal Board shall issue a notice by giving the date and time of inspection and will ensure that the inspection is carried out at the appointed time even if the parties fail to appear at the appointed time and thereafter, he would decide the complaint filed by the respondent no.8 dated 12.03.2022 by considering the reply submitted by the petitioner on 14.02.2023, within a period of 30 (thirty) days thereafter.

7. In view of the directions as referred to hereinbefore, this writ petition stands disposed of.

8. The petitioner shall produce a certified copy before the Chairman Tezpur Municipal Board (respondent no.4) to bring the order to the notice of the said authority.

JUDGE

Comparing Assistant