

GAHC010146282022



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

**Case No. : WP(C)/4839/2022**

RAJESH PAUL AND 2 ORS.  
S/O- LATE GOURANGA PAUL

2: SHYAMAL PAUL  
S/O- LATE BIMAL PAUL

3: SANJAY PAUL  
S/O- BIPAD CH. PAUL

ALL ARE RESIDENTS OF  
LANKA GAON  
WARD NO-2

P.S AND P.O- LANKA

DIST- HOJAI  
PIN-78243

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REP. BY THE SECRETARY, TO THE GOVT. OF ASSAM, MUNICIPAL  
ADMINISTRATION DEPARTMENT, DISPUR, GUWAHATI -06

2:THE DIRECTOR  
MUNICIPAL ADMINISTRATION  
DISPUR  
GHY-06

3:THE DEPUTY. COMMISSIONER  
HOJAI  
PIN-782435

4:THE SUB- DIVISIONAL OFFICER  
LANKA  
DIST- HOJAI  
PIN-782435

5:THE CIRCLE OFFICER  
LANKA  
DIST- HOJAI

PIN-782435

6:THE CHAIRMAN  
LANKA MUNICIPAL BOARD

LANKA  
DIST- HOJAI

PIN-78243

**Advocate for the Petitioner** : MR. A ROSHID

**Advocate for the Respondent** : GA, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 13-10-2023**

Heard Mr. A. Roshid, learned counsel for the petitioners and Mr. D. Nath, learned Senior Government Advocate, Assam for all the respondents.

2. In this writ petition, the writ petitioners, 3 [three] in nos., have projected that they are small businessmen running their business within the areas of the Lanka Municipal Board. It is the case of the petitioners that they had *vitas* [shops] in the market run by the erstwhile Lanka Town Committee and later on, by the Lanka Municipal Board. Earlier, the petitioners used to carry out their business at open shed. In course of time, the Lanka Municipal Board decided to

construct a new multi-storied Business Centre [Market Complex] in place of the earlier market where the petitioners and others had *vitas* [shops]. The petitioners have claimed that they had deposited Rs. 500/- for mutation of their names in the Business Centre [Market Complex]. The main grievance of the petitioners is that though rooms have been constructed by the Lanka Municipal Board in the new Business Centre [Market Complex], such rooms are allotted to other persons depriving the petitioners. With such grievance, the writ petition has been preferred.

3. Mr. Roshid, learned counsel for the petitioners has submitted that doing business in the open shed at the weekly market under the aegis of the erstwhile Lanka Town Committee and thereafter, the Lanka Municipal Board for a long period have given the petitioners a right for fair treatment so far as allotment of *vitas* in the new Business Centre [Market Complex] is concerned. The further grievance of the petitioners is that by depriving them, the rooms are sought to be allotted to other persons who are not deserving at all.

4. *Au contraire*, Mr. Nath, the learned Senior Government Advocate has submitted that the disputes sought to be raised in this petition are essentially factual in nature and as such, determination of factual disputes would fall for consideration. He has further submitted that the projections made on behalf of the petitioners are not absolutely correct. He has submitted that a list of 318 persons was prepared by the respondent Municipal Board in which the names of the 3 [three] petitioners have figured at Serial no. 250, 283 & 314 respectively. He has further submitted that the earlier process of allotment was preceded by a notice. In spite of publication of such notice, the petitioners did not respond and therefore, they did not take part in the process of allotment. It is further

submitted by him that in the first process of allotment 47 rooms in the Business Centre [Market Complex] had been allotted to *bona fide* vendors. Thereafter, some more allotments were made by following due process. He has further submitted that the rates are also fixed for rooms allotted at various floors of the Business Centre [Market Complex]. For the ground floor, the fee is fixed @ Rs, 1,00,000/- and a fee of Rs. 50,000/- has been fixed for rooms allotted at the first floor and the second floor of the Business Centre [Market Complex]. With such contentions, Mr. Nath has submitted that he would not oppose if a representation is directed to be filed by the petitioners to the Chairman of the Lanka Municipal Board for consideration. If such representation is filed, the same would be considered by the respondent Municipal Board and as appropriate speaking order will be passed thereon by taking into account the grievances of the petitioners.

5. Both Mr. Roshid and Mr. Nath have placed a copy of an order dated 18.01.2023 passed in the writ petition, W.P.[C] no. 9262/2019 wherein a similar grievance was raised. They have, thus, submitted that a similar direction may be passed in the present writ petition.

6. Having taking note of the ambit and scope of Article 226 of the Constitution of India and to the broad consensus arrived at by the parties in the afore-stated manner and the direction passed in the writ petition, W.P.[C] no. 9262/2019, this Court is of the considered view that since the disputes raised in this writ petition are factual ones and for determination of the same there will be requirement of adducing evidence from both the parties, this Court is of the considered view that this writ petition can be disposed of with similar kinds of directions, as have been passed in the writ petition, W.P.[C] no. 9262/2019.

Accordingly, the writ petition is disposed of with the following directions :-

1. The petitioners may, within a period of two weeks file appropriate application along with requisite necessary fee, etc. to the Chairman of the Lanka Municipal Board for allotment of room, if any vacancy is there.
2. In the event such application is filed, the same shall be considered and appropriate orders be passed by stating the reasons either for accepting or rejecting. The aforesaid orders that may be passed are required to be intimated to the petitioners so that the entire process becomes a transparent one. The petitioners are further given liberty to challenge the said order if the same is against the interest of the petitioners.

**JUDGE**

**Comparing Assistant**