

GAHC010132582023



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

Case No.: WP(C)/5655/2022

GAMES VILLAGE RESIDENTS WELFARE SOCIETY AND ANR
A SOCIETY REGISTERED UNDER THE SOCIETIES REGISTRATION ACT
1860
HAVING ITS OFFICE AT B-2/002
GAMES VILLAGE
BORSOJAI
BASISTHA
P.S.-BASISTHA
GUWAHATI-781029
REPRESENTED BY ITS SECRETARY

2: ATUL CHANDRA KALITA
S/O LATE KHAGEN KALITA
SECRETARY
GAMES VILLAGE RESIDENTS WELFARE SOCIETY
B-2/002
GAMES VILLAGE
BORSOJAI
BASISTHA
P.S.-BASISTHA
GUWAHATI-781029
VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
GUWAHATI DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6

2: THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
STATFED BUILDING
BHANGAGARH
GUWAHATI-781005

REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
3:THE CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
STATFED BUILDING
BHANGAGARH
GUWAHATI-781005
4:SIMPLEX INFRASTRUCTURE LTD.
SIMPLEX HOUSE
27 SHAKESPEARE SARANI
KOLKATA-700017

For the petitioner (s) : Mr. I. Choudhury, Sr. Advocate
Mr. Mr. A. Choudhury, Advocate

For the respondent (s) : Mr. D. Saikia, Advocate General, Assam
Mr. K. N. Choudhury, Sr. Advocate
Mr. R. J. Das, Advocate
Mr. S. Bora, SC, GMDA

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

08.09.2023

The instant writ petition has been filed by the petitioners challenging the show cause notice issued by the Chief Executive Officer, Guwahati Metropolitan Development Authority (GMDA) dated 16.08.2020 wherein it was alleged that the petitioners were carrying out of unauthorized constructions in the integrated campus of Games Village within the Guwahati Metropolitan area covered by master plan and zoning regulations in the manner and place as specified in the Schedule without the requisite approval of the GMDA and thereby contravening the provisions of Sections 24 & 25 of the GMDA Act, 1985.

2. It appears from the records that pursuant to the said show cause notice, a detailed reply was submitted before the Chief Executive Officer, GMDA on 23.08.2022 by the petitioners stating inter-alia that there was no contravention to the provisions of Sections 24 & 25 of the GMDA Act, 1985 and the action so proposed under Sections 87 & 88 (1) of the GMDA Act, 1985, by the GMDA was illegal.

3. Thereupon, the petitioners apprehending that the respondent GMDA may, at any time, pass an order and without giving the petitioners an opportunity to avail remedies available under law, would demolish the structures have approached this Court by filing the present writ petition.

4. It reveals from the records that this Court vide an order dated 31.08.2022 had issued notice and the operation of the notice dated 16.08.2020 was stayed till the next returnable date. It further reveals from the records that the respondent Nos.2 & 3 had filed an affidavit-in-opposition. It is also seen that the GMDA as well as one M/S Simplex Infrastructures Limited had also filed Interlocutory Application seeking vacation of the order dated 31.08.2022.

5. I have heard the learned counsels for the parties and perused the materials on record. The issuance of the show cause notice by the Chief Executive Officer, GMDA dated 16.08.2020 upon the petitioners cannot be called into question on the ground of lack of jurisdiction. It is also seen that the petitioners had also submitted to the said jurisdiction by submitting reply on 23.08.2022. However, the petitioners only apprehend that the respondent authorities may pass an order which may be prejudicial to the petitioners and without providing any opportunity, may demolish the structures constructed by the petitioners.

6. Taking into account the above, this Court disposes of the instant writ petition giving liberty to the GMDA to bring the proceedings initiated on the basis of the show cause notice dated 16.08.2020 to a logical conclusion.
7. This Court further observes and directs that in case any order(s) is/are passed which is/are prejudicial to the interest of the petitioners, then a period of 30(thirty) days be provided to the petitioners from the date of service of such order(s), so that the petitioners may avail such remedies as available under the law.
8. The interim order dated 31.08.2022, therefore, stands merged with the present order whereby the liberty had been granted to the GMDA to bring to a logical end the proceedings initiated on the basis of the show cause notice dated 16.08.2020.
9. With the above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant