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

Case No. : WP(C)/3252/2015

SILCHAR CITY BUS and MINI BUS OWNERS
A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT, XXI OF
1860, HAVING ITS REGISTERED OFFICE AT TRUNK ROAD, SILCHAR TOWN,
SILCHAR- 788001, DIST. CACHAR, ASSAM, REP. BY ITS GENERAL
SECRETARY, SRI BISWAJIT CHOUDHURY.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER and DEPARTMENT OF TRANSPORT, DISPUR,
GUWAHATI-6, ASSAM.

2:THE SECRETARY

TO THE GOVT. OF ASSAM
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI-6
ASSAM.

3:THE DEPUTY SECRETARY

TO THE GOVT. OF ASSAM
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI-6
ASSAM.

4:THE DEPUTY COMMISSIONER

CACHAR
ASSAM

P.O. SILCHAR- 788001.

5:THE ASSISTANT SETTLEMENT OFFICER

SILCHAR SADAR
CACHAR
ASSAM

For the Petitioner(s) : Mr. D. Chakraborty, Advocate
For the Respondent(s) : Ms. U. Das, Addl. Sr. Government Advocate
: Ms. N. Bordoloi, Standing Counsel
: Ms. M. D. Borah, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 21.12.2023

1. The Petitioner herein which is a society registered under the Societies Registration Act, 1860 has assailed the actions on the part of the Respondent Authorities in putting barricades in front of the Flag Station of the Petitioner society over the land presently in possession of the Petitioner measuring 12 Kathas under 2nd R.S. Dag No.2678 pt of Mouza- Silchar Town Porgonah - Barakpar in the District of Cachar.
2. From the facts as seen from the writ petition, it appears that there was some sort of permission being given for which the Petitioner herein has set up their Flag Station. Be that as it may, the land wherein the Petitioners are in occupation is a Government land and as of now, the Petitioner has not been issued any allotment/settlement. Under such circumstances, in view of the Settlement Rules, the Petitioner has no right over the land in question but for the permission which was granted under Rule 16 of the Settlement Rules to

remain in occupation.

3. This Court has also taken note of the submission made by the learned counsel for the Petitioner that as the Petitioner has been allowed to remain in occupation of the land and there was no decision taken to evict the Petitioner, the right of the Petitioner to enjoy the land cannot be taken away sans the due process of law being followed.

4. I have also heard the Ms. U. Das, the learned Additional Senior Government Advocate who submitted that the land in question is a Government land and in view of the traffic congestion in an around the Silchar Town, the Respondents for administrative exigency and public interest have decided that such buses should not be allowed to ply around the Silchar Town.

5. Per contra, Mr. D. Chakraborty, the learned counsel for the Petitioner draws the attention of this Court to paragraph No.5 of the affidavit-in-opposition filed by the Respondent No.4 wherein it was mentioned that the policy decision is only in respect to Inter-State, Inter-District and long distance buses. It is the categorical submission of the Petitioner that its members only runs mini buses in an around the city.

6. This Court upon hearing the learned counsels for the parties is of the opinion that if the Petitioner has been granted the permission to be in occupation which apparently seems to be in view of the documents on record, the Respondent Authorities can only deprive the Petitioner of such rights over the land by following the due process. The said observation is subject to permission given by the District Commissioner to the Petitioner to occupy the land.

7. Accordingly, this Court therefore directs the Respondent Authorities to

remove the barricades which were put by the District Administration in front of the Flag Station of the Petitioner society.

8. This Court however for the purpose of clarification observes that the instant directions so passed for removing of the barricades shall not deter or affect the rights of the Respondent Authorities to follow the due process for the purpose of eviction of the Petitioner.

9. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant