

GAHC010180942023



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

Case No. : WP(C)/4910/2023

DANDURAM BORA
SON OF SRI PHULSINGH BORA,
R/O- 1 NO. BORCHOLA,
P.O.- BORCHOLA,
P.S.- LAHARIGHAT,
IN THE DISTRICT OF MORIGAON, ASSAM,
PIN- 782106.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI- 781037.

3:THE DISTRICT COMMISSIONER
MORIGAON
DISTRICT- MORIGAON
ASSAM.

4:THE CHIEF EXECUTIVE OFFICER
MORIGAON ZILLA PARISHAD
DISTRICT- MORIGAON
ASSAM.

5:THE BLOCK DEVELOPMENT OFFICER
LAHARIGHAT DEVELOPMENT BLOCK
LAHARIGHAT
DISTRICT- MORIGAON

ASSAM.

6:THE SECRETARY
BORCHOLA GAON PANCHAYAT
LAHORIGHAT DEVELOPMENT BLOCK

DISTRICT- MORIGAON
ASSAM.

7:MD. FOKOR UDDIN AHMED
SON OF UNKNOWN

PRESIDENT
CONSTRUCTION COMMITTEE FOR THE SCHEMES NAMELY-
CONSTRUCTION OF MARKET SHEDS
AT BORCHALA CHARIALI DAILY MARKET
UNDER BORCHALA GAON PANCHAYAT

DISTRICT- MORIGAON
ASSAM

PIN- 782106

For the petitioner(s) : Mr. M.K. Borah, Advocate.

For the respondent(s) : Mr. S. Dutta, SC, P&RD Department.

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

O R D E R

01.09.2023

1. The instant writ petition is filed by the Petitioner challenging the order dated 15.03.2023 passed by the Respondent No.5, whereby a Construction

Committee was constituted for the Schemes namely "Construction of Market Shed at Borchala Chariali Daily Market" under Borchala GP with an estimated amount of Rs.5,00,000/-. The grievance of the Petitioner herein is that prior to the impugned order the Block Development Officer, i.e. the Respondent No.5 had issued an order on 03.11.2022 constituting a Construction Committee wherein the Petitioner was the Chairman. The further grievance of the Petitioner is that the earlier Construction Committee was also dissolved without notice and without any basis.

2. Mr. S. Dutta, learned counsel appearing on behalf of P&RD Department has placed an instruction dated 31.08.2023 issued by the Respondent No.5. In the said instructions it was mentioned that the Respondent No.5 was informed that the former Secretary of Borchala Gaon Panchayat, one Md. Habibur Rahman had distorted the Minutes of the Gaon Sabha and replaced the Chairman of the Construction Committee of the Scheme namely "Construction of Market Shed at Borchala Chariali Daily Market" without the prior knowledge of the GP President and had thereupon mislead the Respondent No.5 for getting the approval. The Respondent No.5 further states in his instructions that upon asking the original Gaon Sabha proceeding, the former Secretary Habibur Rahman (under suspension) did not hand over the proceedings to the present GP Secretary till date. It was also mentioned that no work had started in respect to the Scheme and no fund was being transferred to the Construction Committee account wherein the Petitioner was the Chairman from the mother account till 05.03.2023. Further to that, it was also mentioned that the GP President and the present Secretary had conducted another Gaon Sabha on 20.02.2023 for selection of the Chairman of the Construction Committee of

various Schemes under the 15th Finance Commission for the year 2020-2021 and 2021-2022 forfeiting all previous Construction Committees formed. In the instructions it was also mentioned that the Petitioner herein had made a false allegation in the writ petition that he was previously selected as the Chairman of the Construction Committee of 3 Schemes under the 14th Finance Commission. Further to that, there were various allegations against the Petitioner and the former Secretary Habibur Rahman that they had deliberately distorted the Minutes of the Gaon Sabha for their self benefit. It was further mentioned that the new Construction Committee which was formed vide the impugned communication under the Chairmanship of one Fokor Uddin Ahmed, there has been a physical progress of 40% and financial progress of 25%. The said instructions along with the materials so placed before this Court are kept on record and marked as 'X'.

3. I have heard the learned counsel for the parties.

4. This Court made a specific query upon the learned counsel appearing on behalf of the Petitioner as to what enforceable right the Petitioner had challenged the impugned order dated 15.03.2023, whereby a new Construction Committee has been formed. The learned counsel however could not show any enforceable right to continue as the Chairman on the basis of the earlier order dated 03.11.2022 nor could show that the Gaon Panchayat or the Respondent No.5 did not have authority to change the Construction Committee. This Court apart from the above had also taken note of the stand of the Respondent No.5 as is contained in the documents which are kept on record and marked as 'X'.

In that view of the matter this Court finds no reason to interfere with the order dated 15.03.2023, more so when there has been physical progress of 40% and financial progress of 25% under the aegis of the present Construction Committee formed on the basis of the impugned order dated 15.03.2023.

5. Accordingly, the instant writ petition stands dismissed.

JUDGE

Comparing Assistant