

GAHC010233982022



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

Case No. : WP(C)/7450/2022

GOPAL PRADHANI
S/O LATE TAJIM UDDIN, R/O VILL-TAHNGBHITA, MAJERCHAR, P.O.-
MAJERCHAR, P.S.-FAKIRGANJ, DIST-DHUBRI, ASSAM, PIN-78332

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 DEPUTY COMMISSIONER
DHUBRI DISTRICT
P.O. AND DIST-DHUBRI
ASSAM
PIN-783301

3:THE DHUBRI ZILLA PARISHAD
DHUBRI
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
ZILA PARISHAD
DHUBRI
P.O. AND DIST- DHUBRI
ASSAM-783301

4:THE CHIEF EXECUTIVE OFFICER
DHUBRI ZILA PARISHAD
DHUBRI
P.O.
P.S. AND DIST-DHUBRI
ASSAM
PIN-783301

5:THE ASSISTANT EXECUTIVE ENGINEER
I.W.T. SUB-DIVISION
DHUBRI
P.O.
P.S. AND DIST- DHUBRI
ASSAM
PIN-783301

6:THE BIRSINGH JARUA ANCHALAYAK PANCHAYAT
DHUBRI
P.O.
P.S. AND DIST- DHUBRI
ASSAM
PIN-783301 REPRESENTED BY ITS EXECUTIVE OFFICER

7:SATYA RANJAN DAS
S/O LATE PREMANANDA DAS
R/O WARD NO. 12
P.O. AND DIST- DHUBRI
ASSAM
PIN-78330

Advocate for the Petitioner : MR J MOLLAH

Advocate for the Respondent : SC, P AND R.D.

WP(C)/6959/2022

AFZAL HUSSAIN
S/O LATE ABDUS SAMAD
VILL-CHALAKURA PT-IV
P.O.-MAJERCHAR
P.S.-FAKIRGANJ
DIST- DHUBRI (ASSAM)
PIN-783325

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT DISPUR
GUWAHATI-6

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
PANJABARI
JURIPAR
GUWAHATI-37

3:THE DEPUTY COMMISSIONER
DHUBRI DISTRICT
DHUBRI
P.O. AND DIST- DHUBRI
ASSAM
PIN-783301

4:THE DHUBRI ZILLA PARISHAD
REPRESENTED BY ITS PRESIDENT
DHUBRI ZILLA PARISHAD
DHUBRI
P.O.
P.S. AND DIST- DHUBRI
ASSAM
PIN-783301

5:THE CHIEF EXECUTIVE OFFICER
DHUBRI ZILLA PARISHAD
DHUBRI
P.O.
P.S. AND DIST-DHUBRI
ASSAM
PIN-783301

6:THE ASSISTANT EXECUTIVE ENGINEER
IWT SUB-DIVISION
DHUBRI
P.O.
P.S. AND DIST- DHUBRI
PIN-783301

7:THE PRESIDENT
BIRSING JARUA ANCHALIK PANCHAYAT
DHUBRI
P.O. AND DIST- DHUBRI
ASSAM
PIN-783301

8:THE EXECUTIVE OFFICER AND BLOCK DEVELOPMENT OFFICER
BIRSING JARUA ANCHALIK PANCHAYAT
DHUBRI
P.O. AND DIST- DHUBRI
ASSAM
PIN-783301

9:GOPAL PRODHANI
S/O TAZIMUDDIN PRODHANI
VILL- TAHNGVITA MAJERCHAR
P.O.-MAJERCHAR

DIST- DHUBRI

PIN-783325

Advocate for : MR R ISLAM

Advocate for : SC

P AND R.D. appearing for THE STATE OF ASSAM AND 8 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

23.01.2023

Both the writ petitions, being connected, are taken up together for disposal at the admission stage.

2. Since the issues emanates from the same origin, the facts of the case, in brief, are noted in the following manner.

3. An NIT was floated on 23.05.2022 for settlement of the Katlamri Pt-III, IV and Dhorbari to Dhubri Parghat (for short referred to as the Parghat) by the Birshing Jarua Anchalik Panchayat in the district of Dhubri. Pursuant to the said NIT, 19 bidders had submitted their bids. It is the undisputed case that the petitioner, Shri Gopal Pradhani, in WP(C)/7450/2022 had bid the third highest bid but because of the fact that the first and second bidders had forfeited, the bid of the said Gopal Pradhani was adjudged the valid highest bid. It also transpires that while submitting all the details which is a requirement under Clause 23, the said Gopal Pradhani could not give the details of the marine engine. At that stage, WP(C)/6959/2022 was filed by one Afzal Hussain challenging the settlement, as the person selected, did not have a marine engine. In the meantime, it appears that another aspect had also arisen, namely, involvement of forgery in the document of Gopal Pradhani wherein one Shri Satya Ranjan Das had made a complaint that the signature of Shri Gopal Pradhani in the

tender documents was forged and based on the same, the settlement was cancelled by the Zilla Parishad. The aforesaid cancellation is the subject matter of challenge in WP(C)/7450/2022 in which an interim order is operating.

4. I have heard Shri R Islam, learned counsel for the petitioner in WP(C)/6959/2022 as well as Shri J Mollah, learned counsel for the petitioner in WP(C)/7450/2022. Shri S Dutta, learned Standing Counsel is present for the Panchayat and Rural Development (P&RD) Department whereas Shri RB Goswami, learned counsel appears on behalf of Ms. MD Bora, learned Standing Counsel, IWT. Sri Dutta, learned Standing Counsel has also produced the instructions and records.

5. Shri Islam, learned counsel for the petitioner in WP(C)/6959/2022 has submitted that it is incumbent upon a bidder to produce the details of the engine which Shri Gopal Pradhani was not able to do as a result, it was his client who was temporarily allotted the Parghat to operate. Subsequently, an agreement was produced by Shri Gopal Pradhani regarding availability of marine engine whereafter the operation of the Parghat was given to the said Shri Gopal Pradhani.

6. Shri Mollah, learned counsel for the petitioner, Shri Gopal Pradhani, however submits that though the allotment was for a period of 1 year, he has hardly got only 6 months to operate. Shri Islam, learned counsel for the petitioner in WP(C)/6959/2022 has submitted that when the incumbent had failed to meet the requirement of the tender, the allotment could not have been granted in his favour which requires interference by this Court.

7. Coming to the facts of the second writ petition, namely, WP(C)/6959/2022, as indicated above, the cause of action had arisen from a complaint lodged by one Shri Satya Ranjan Das alleging forgery in the thumb impression of Shri Gopal Pradhani

based upon which, the Zilla Parishad had already taken an action of cancellation. Taking that fact into account, the cause of action connected with WP(C)6959/2022 had ceased to exist as, may be, because of some other reasons, the settlement had been cancelled. In this regard, the submission of Shri Dutta, learned Standing Counsel, P&RD Department in referring Clause 10 of the tender document is also significant. Clause 10 provides that the authorities may give an opportunity to the valid highest bidder to submit documents and it is in pursuance to the said clause that Shri Gopal Pradhani was given an opportunity to furnish the documents relating to marine engine which, he could do subsequently and therefore, the Parghat was handed over to him by the allotment order. In that view of the matter, this Court is of the opinion that the challenge made by Shri Islam, learned counsel for the petitioner in WP(C)/6959/2022 may not have any grounds and accordingly, the same stands rejected.

8. Coming to the second writ petition filed by Shri Gopal Pradhani, this Court has noticed that the cause of action has arisen because of complaint of a third party, namely, Shri Satya Ranjan Das. The complaint is not regarding any forgery of signature of anybody else by the petitioner but the forgery is of petitioner's own signature in the document submitted by the petitioner pursuant to the NIT. When the petitioner himself has not denied his signature in the document submitted pursuant to the tender, this Court is of the opinion that nobody else can raise any dispute with regard to the said signature. Forgery of signature would cause prejudice to the person of whom the signature has been forged. However, in the instant case, the said person not having made any complaint and rather, endorsing the signature to be his own, the authorities ought not to have proceeded with the matter and therefore, cancellation of the allotment made with Shri Gopal Pradhani on the complaint of Shri Satya Ranjan Das vide the order dated 07.11.2022 is not sustainable in law.

9. In view of the above, WP(C)/74050 is allowed. Interim order passed in the said writ petition is made absolute.

JUDGE

Comparing Assistant