

GAHC010263992023



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

Case No. : I.A.(Civil)/3445/2023
in
WP(C)/5233/2023

RANSAIGWRA BORO
S/O- SRI BHOJEN CHANDRA BORO, R/O- VILL.- LADABARI, P.O. DALAKATI
BORO BAZAR, P.S. ROWTA, DIST. UDALGURI, ASSAM

VERSUS

MITHISAR SWARGIARY AND 5 ORS
S/O- KHANSAI SWARGIARY, VILL.- ROWTA PATHER, P.O. BALUKMARI,
DIST. UDALGURI, ASSAM

2:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY ITS PRINCIPAL SECRETARY
KOKRAJHAR
ASSAM

3:THE SECRETARY

BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM

4:THE ADDITIONAL CHIEF CONSERVATOR OF FOREST CUM CHD
FOREST DEPARTMENT
BTC
KOKRAJHAR
ASSAM

5:THE DIVISIONAL FOREST OFFICER
DHANSIRI FOREST DIVISION
UDALGURI.

6:THE DISTRICT COMMISSIONER
UDALGURI
ASSA

Advocate for the Petitioner : MR. B CHAKRABORTY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.12.2023

Heard Shri B. Chakraborty, learned counsel for the applicant (respondent no. 6), who by means of this application has prayed for modification / vacation / alteration of the *ex-parte* interim order dated 13.09.2023 passed in the connected WP(C)/5233/2023.

2. The subject matter of the writ petition was with regard to the settlement of a Sand Mahal in the name Dhansiri Sand Gravel Mahal in the district of Udalguri. As per the facts projected in the writ petition, on 05.08.2023, a tender notice for the said Mahal was issued. The contention of the petitioner is that there was no wide publicity of the said tender notice as a result of which, the writ petitioner could not participate in the said tender process. It has also been contended by the writ petitioner that he had filed a representation before the authorities before a final decision was taken which was also not taken into consideration.

3. Shri J. Laskar, learned counsel for the writ petitioner has also placed reliance upon a decision of this Court in the case of ***Kalpana Sarkar Vs. State of Assam*** [WP(C)/5620/2019] disposed of on 08.08.2019 wherein the

requirement of wide publicity has been emphasized by this Court.

4. Shri Chakraborty, learned counsel for the applicant however submits that the averments in the writ petition are not correct. He submits that the notice, apart from being published in the notice board was also published in the Bodosa newspaper which is having large circulation, especially in the area in question. It is further submitted that mere fact that around 9 tenders were submitted pursuant to the said notice fortifies the contention that there was adequate publicity. He also submits that the petitioner himself belonging to that area and having neglected to submit his bid within time prescribed, cannot later on put the entire process to challenge.

5. By drawing the attention of this Court to the order dated 13.09.2023, Shri Chakraborty, learned counsel has submitted that the direction not to issue any work order in respect of the settlement process undertaken is based on submissions which are untenable on facts as well as in law and therefore the same is required to be vacated, which is also otherwise causing immense prejudice not only to the petitioner but also adversely affecting the public interest.

6. Shri SR Rabha, learned Standing Counsel, BTC supports the application filed for vacating the interim order. He submits that the newspaper in question namely, Bodosa has wide publication in the area and in similar settlements, the same process is adopted and the writ petition is itself instituted without any *bona fide* purpose.

7. The rival contentions made by learned counsel for the parties have been duly considered.

8. The primary contention raised in the writ petition is lack of proper publicity

of the tender process. The writ petition however itself contains an averment that the same was published in the Bodosa newspaper. There is no dispute in the Bar that the said Bodosa newspaper is widely circulated in the area in question and also the fact that the petitioner himself belongs to the Bodo Community and hails from the same area. In that view of the matter, this Court is unable to accept the submission made on behalf of the writ petitioner regarding lack of wide publicity, more so, the writ petitioner has failed to show any prejudice suffered by him by the process. The settlement in question is for a period of 7 years and therefore, there is no reason as to why the interim order which was passed *ex-parte* should be continued.

9. In view of the above, the interim order dated 13.09.2023 passed in the WP(C)/5233/2023 is vacated.

10. The I.A. accordingly stands disposed of.

JUDGE

Comparing Assistant