

GAHC010264322023



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

Case No. : WP(C)/6846/2023

ABDUL BAREK ALI
S/O- LATE RAMJAN ALI, VILL.- GUTIPARA PART-VI, P.O. BAGRIBARI, P.S.
BILASIPARA, DIST. DHUBRI, ASSAM, PIN- 783349.

VERSUS

THE STATE OF ASSAM AND 17 ORS
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF ASSAM, DISPUR,
GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GHY-6.

3:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE CHIEF EXECUTIVE OFFICER

ZILLA PARISHAD
DHUBRI
P.O.
P.S. AND DIST. DHUBRI
ASSAM
PIN- 783301.

5:THE EXECUTIVE OFFICER

NAYERALGA ANCHALIK PANCHAYAT
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348.

6:THE SUPERINTENDENT OF POLICE
DHUBRI
ASSAM

7:THE IC NAYER ALGA POLICE OUT POST

NAYER ALGA
P.O. NAYER ALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348.

8:THE OFFICER-IN-CHARGE
GAURIPUR POLICE STATION
DIST. DHUBRI
ASSAM

9:BELLAL HUSSAIN
S/O- LATE HOSEN ALI
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

10:MUSA SHEIKH
S/O- ASHAT ULLAH
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

11:BAKKAR ALI
S/O- MONTA
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

12:KHALIL
S/O- MONTA
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

13:KESHMOT ALI
S/O- ABDUL
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

14:LOKMAN ALI
S/O- ASHAT ULLAH
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

15:ABDUL HUSSAIN
S/O- KHALIL SHEIKH
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

16:BASID ALI
S/O- KHALIL SHEIKH
R/O- VILL.- GUTIPARA PT-VI
P.O. BAGRIBARI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

17:ISMAIL HUSSAIN
S/O- NASKAR MONDAL
R/O- VILL.- PATAKATA PT-II
P.O. BAGRIBARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM

18:ASMOT ALI
S/O- ABUL HOSEN
R/O- VILL.- PATAKATA PT-II
P.O. BAGRIBARI
P.S. GAURIPUR
DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

29.11.2023

Heard Shri MU Mondal, learned counsel for the petitioner. Also heard Shri S. Dutta, learned Standing Counsel, P & RD Department.

2. The projected case of the petitioner is that vide various communications dated 04.10.2023, 05.10.2023 and 01.11.2023, the petitioner was allowed to collect the tolls from the Bagribari Patakata Ghat w.e.f. 05.10.2023 till final orders are passed by the competent authority. It is submitted that an order was passed by this Court on 22.09.2023 in WP(C)/5575/2023. The submission made by the learned counsel is that the private respondent no. 8 are causing disturbance in such collection of tolls from the said Ghat and in this regard an FIR has been lodged on 05.10.2023, 13.10.2023 and 14.11.2023. The learned counsel accordingly prays for appropriate relief.

3. Shri Dutta, learned Standing Counsel of the Department however questions the *locus* as well as *bona fide* of the petitioner in approaching the Court. He submits that in the garb of this petition, the petitioner is trying to have indulgence from this Court to facilitate in running the Ghat without any

order of settlement.

4. To examine the rival submissions, it would be necessary to take into account the relief prayed for in this writ petition, which is as follows:

“In the premises aforesaid, it is most respectfully prayed that Your Lordship would be pleased to admit this petition call for records, issue notice upon the respondents to show cause as to why a writ of Mandamus should not be issued directing the respondents authorities not to disturb the petitioner in running the Bagribari Patakata Ghat for the year 2023-24 in favour of the petitioner under Nayeralga Anchalik Panchayat in the district of Dhubri and/or cause or causes being shown upon hearing the parties, on perusal of the records be pleased to make the rule absolute by granting complete and adequate relief to the petitioner and/or pass such other order or orders as Your Lordships may deem fit and proper.”

5. A bare reading of the prayer would give an idea that the petitioner is seeking a direction from this Court not to disturb him in running the Bagribari Patakata Ghat for the year 2023-24 stated to be settled in favour of the petitioner by the Nayeralga Anchlik Panchayat in the district of Dhubri.

6. On perusal of the order dated 22.09.2023 passed by this Court in WP(C)/5575/2023 instituted by the petitioner will however give a different picture altogether. This Court had disposed of the said writ petition by directing the Department to pass effective orders within 30 days from the date of receipt of certified copy and till the matter is disposed of, the Ghat in question was to be run by the Department directly.

7. Shri Dutta, learned Standing Counsel has referred to the order dated 04.10.2023 issued by the Executive Officer-cum-BDO whereby one Shri Abdul

Kuddus Ahmed, Tax Collector was authorized to collect the tolls from the Ghat in question. Pursuant to the said order, the said Shri Abul Kuddus Ahmed, Tax Collector had issued an authority letter dated 05.10.2023 to the petitioner to collect the tolls on his behalf.

8. It becomes clear that the present job assigned to the petitioner was only as an agent of the Tax Collector, who himself was deputed as an agent by the Anchalik Panchayat to collect tolls of the said Ghat in question till the matter is finally resolved concerning the settlement. There are no materials even to indicate that there has been any settlement in favour of the petitioner. Juxtaposed, the prayer portion of this writ petition would lead this Court to a conclusion as if the settlement is in favour of the petitioner for the year 2023-24 which does not appear to be a correct projection of the fact.

9. This Court is therefore of the opinion that the instant writ petition is not only without any merits but an abuse of the process. Accordingly, the writ petition is dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand) to be paid in favour of the Gauhati High Court Bar Association Welfare Fund.

JUDGE

Comparing Assistant