

GAHC010306292019



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

Case No. : WP(C)/9262/2019

SANJAY PAUL AND ANR.
S/O- LT. BIPAD CH. PAUL, R/O- LANKA, WARD NO.2, P.O. LANKA, DIST.-
HOJAI, ASSAM, PIN- 782435

2: SIMA PAUL
W/O- SRI SANJAY PAUL
R/O- LANKA
WARD NO.2
P.O. LANKA
DIST.- HOJAI
ASSAM
PIN- 78243

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE SECY. TO THE GOVT. OF ASSAM, DEPTT. OF MUNICIPAL
ADMINISTRATION, DISPUR, GHY-6

2:THE DY. COMMISSIONER
HOJAI
PIN- 782435

3:THE SUB-DIVISIONAL OFFICER
LANKA
DIST.- HOJAI
PIN- 782435

4:THE CIRCLE OFFICER
LANKA
DIST.- HOJAI
PIN- 782435

5:THE CHAIRMAN

LANKA MUNICIPAL BOARD
LANKA
DIST.- HOJAI
P.O. LANKA
DIST.- HOJAI
PIN- 78243

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

18.01.2023

Heard Shri A. Roshid, learned counsel for the petitioners. Also heard Shri D. Nath, learned Senior Government Advocate, Assam for all the respondents.

The projected facts in the petition are that the petitioners are small businessmen of Lanka Municipal area. The petitioners claimed to have been doing business at open shed at the weekly market which has presently become the Business Centre of Lanka Bazar. The petitioners claim to have deposited Rs. 500/- for mutation of their names in the Lanka Business Centre. The allegations of the petitioners are that though Bazar Vita rooms have been constructed by the Lanka Municipal Board, such rooms are allotted to other persons depriving the petitioners. Therefore, the present writ petition has been filed.

Shri Roshid, the learned counsel for the petitioners submits that doing business in the open shed at the weekly market for a long period of time gives the petitioners a right for fair treatment so far as allotment of vita in the Business Centre is concerned. The further grievances of the petitioners are that

by depriving them, the rooms are sought to be allotted to other persons who are not deserving at all.

Per contra, Shri Nath, the learned State Counsel has submitted that the disputes sought to be raised in this petition are essentially factual in nature. He further submits that the projection made on behalf of the petitioners is not absolutely correct. He submits that the two petitioners are spouses and amongst themselves have applied for seven numbers of rooms. A list of 318 was prepared by the Board in which the names of the petitioners figured against 7 rooms. The same was followed by a notice. However, in spite of the fact that 130 persons had responded to the same, the petitioners did not even respond and therefore, they did not take part in the process of allotment by which 47 rooms were allotted to *bona fide* vendors. Thereafter, some more allotments were there by following the due process of law. Shri Nath, the learned State Counsel submits that the rates are also fixed for rooms in the various levels. For ground floor the fee is Rs. 1,00,000/-, for first floor and second floor, the fee is Rs. 50,000/-. The learned State Counsel however has not opposed to the idea that if a representation is directed to be filed by the petitioners to the Chairman of the Lanka Municipal Board, the same may be directed to be considered and appropriate speaking orders be passed thereon by taking into account the grievance of the petitioners.

After hearing the parties, this Court is of the opinion that the disputes raised in this petition is a factual one and for determination of the same, there would be requirements of adducing of evidence from both the parties. However, since the recourse of Article 226 of the Constitution of India has been taken into, this writ petition is disposed of in the following direction.

1. The petitioners may, within a period of two weeks file appropriate

application along with requisite necessary fee, etc. to the Chairman of the Lanka Municipal Board for allotment of room, if any vacancy is there.

2. In the event such application is filed, the same shall be considered and appropriate orders be passed by stating the reasons either for accepting or rejecting. The aforesaid orders that may be passed are required to be intimated to the petitioners so that the entire process becomes a transparent one. The petitioners are further given liberty to challenge the said order if the same is against the interest of the petitioners.

The writ petition accordingly stands disposed of.

The petitioners may obtain certified copy of this order and produce the same before the appropriate authority along with the representation. The representation may be disposed of expeditiously and in any case within a period of three months from the date of receipt of the same.

JUDGE

Comparing Assistant