

GAHC010030202024



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

Case No. : WP(C)/756/2024

MD. LUTFUR RAHMAN
S/O- LATE J. AHMED, R/O- RAIDONGIA NA-KACHARI GAON, P.O.
TIOKGHAT, P.S. SONARI, DIST. CHARAIDEO, ASSAM, PIN- 785690.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, GENERAL ADMINISTRATION DEPARTMENT,
DISPUR, GUWAHATI.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI.

3:THE DISTRICT COMMISSIONER
CHARAIDEO
SONARI.

4:THE ADDITIONAL DISTRICT COMMISSIONER (REVENUE)

CHARAIDEO
SONARI.

5:ABHIJIT GOGOI
ADDITIONAL DISTRICT COMMISSIONER (REVENUE)
CHARAIDEO
SONARI.

6:THE SUB-DIVISIONAL OFFICER (SADAR)

CHARAIDEO
SONARI.

7:SMTI. SULEMA KHATUN
W/O- LATE SOFIQUDDIN AHMED
R/O- WARD NO. 9
SONARI TOWN
P.O. AND P.S. SONARI
DIST. CHARAIDEO
ASSAM
PIN- 785690

Advocate for the Petitioner : RUBI GOGOI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
ORDER**

01.03.2024

Heard Mr. R.B. Phookan, learned counsel for the petitioner; Mr. A. Phukan, learned Standing Counsel, General Administration Department [GAD] for the respondent no. 1; Ms. G. Hazarika, learned Standing Counsel, Revenue & Disaster Management Department for the respondent no. 2; and Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent nos. 3, 4 & 6.

2. Having regard to the issues raised in this writ petition and in view of the instructions received in deference to the previous order of this Court, this writ petition is taken up for consideration as agreed to by the learned counsel for the parties. In view of the nature of the order to be passed, the Court finds no necessity to issue formal notice to the party-respondent no. 5 and the party-respondent no. 7, impleaded in this writ petition.

3. The basic grievance of the petitioner is that one Smti. Sulema Khatun made a complaint initially before the Circle Officer, Sonari Revenue Circle, District - Charaideo alleging that in respect of 2 [two] nos. of plots of land covered by [i] Dag no. 29 & Periodic Patta no. 1; and [ii] Dag no. 426 & Periodic Patta no. 160, situate at Raidongia Na-Kachari Gaon, Mouza – Abhoypur, District - Charaideo, illegal mutations had been granted. The same

complainant, that is, Smti. Sulema Khatun, impleaded herein as the party-respondent no. 7, had also made a complaint before the Superintendent of Police, Directorate of Vigilance & Anti-Corruption, Assam in respect of the same subject-matter and the said complaint was forwarded to the office of the District Commissioner, Charaideo by the Superintendent of Police, Directorate of Vigilance & Anti-Corruption, Assam by a letter dated 14.12.2023. In both the complaints, allegations are *inter-alia* made against the petitioner.

4. It is noticed from the instructions communicated to Mr. Baruah, learned Junior Government Advocate, Assam by the District Commissioner, Charaideo vide Letter no. CRKG.14/2023-24/531 dated 28.02.2024 that on receipt of the first complaint by the Circle Officer, Sonari Revenue Circle, the Circle Officer, Sonari Revenue Circle had initiated an enquiry by issuing notices to the petitioner and Smti. Sulema Khatun for the purpose of ensuring their appearances before him to conduct and complete the enquiry, as regards the allegations made in respect of the illegal mutation passed in relation to the afore-mentioned two plots of land. The Circle Officer, Sonari Revenue Circle had, later on, forwarded the matter with a report to the District Commissioner, Charaideo. On receipt of the report from the Circle Officer, Sonari Revenue Circle, the District Commissioner had directed the Sub-Divisional Officer [S], Charaideo, on 26.12.2023, to conduct an enquiry into the matter. Similarly, after receipt of the letter from the Superintendent of Police, Directorate of Vigilance & Anti-Corruption, Assam, Assam, the District Commissioner, Charaideo forwarded the petition of Smti. Sulema Khatun to the Additional District Commissioner [Revenue], Charaideo to get the matter enquired.

5. Mr. Phookan, learned counsel for the petitioner has submitted that as there are two proceedings wherein the petitioner has been put on notice, before two different authorities on the same subject-matter, started on the basis of complaints submitted by the same complainant, that is, Smti. Sulema Khatun, there is likelihood of conflicting orders in the two proceedings.

6. Mr. Baruah, learned Junior Government Advocate, Assam has fairly submitted that the proceedings pending before the Sub-Divisional Officer [S], Charaideo and the Additional

District Commissioner [Revenue], Charaideo are, more or less, on the same subject-matter, that is, illegal grant of mutation. He has submitted that for the purpose of consistency and in order to avoid multiplicity of proceedings, it is expedient that both the proceedings be conducted by the same authority.

7. In the Letter dated 28.02.2024 of the District Commissioner, Charaideo, it has been conveyed that since the petitioner being a Gaon Pradhan, is a public servant, there is necessity to enquire into the allegations against him internally before initiation of any departmental proceedings. It appears from the said Letter that the two proceedings initiated against the petitioner and few others are in respect of the allegations made in complaints submitted by Smti. Sulema Khatun regarding illegal mutation in respect of the aforementioned two plots of land. The two proceedings are not departmental proceedings and are enquiries into the complaints of same nature. In such view of the matter, this Court is of the considered view that it would be expedient for the purposes of consistency and to avoid the possibility of passing of conflicting orders in the two different proceedings in respect of the same subject-matter, the District Commissioner shall get both the complaints enquired by one authority, that is, either by himself or by any authority under his superintendence, as the case may be. For expeditions consideration of such proceedings, the petitioner has to ensure his participation in the said proceedings and for the purpose, the jurisdictional District Commissioner or the authority who will be entrusted to conduct the enquiry, shall serve due notice to the petitioner for his appearance. It is, therefore, directed that after taking a decision for consolidation of the proceedings, the petitioner should be duly intimated about the date of hearing for his participation in the proceedings.

8. With the observations made and the direction given above, the writ petition is disposed of.

JUDGE

Comparing Assistant