

GAHC010036702022



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

Case No. : WP(C)/1348/2022

GAURAV NATH
S/O BIJOY KRISHNA R/O WARD NO. 5 RONGPUR BAIDYANATH SARANI,
SILCHAR-9, P.S SILCHAR, DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT (LR) DEPTT. DISPUR,
GUWAHATI-6

2:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR
ASSAM

3:THE CIRCLE OFFICER
SILCHAR REVENUE CIRCLE CACHAR
DIST. CACHAR
ASSAM

4:THE SILCHAR MUNICIPAL BOARD
REP. BY ITS EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
SILCHAR
CACHAR
ASSAM

5:THE EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
SILCHAR
CACHAR
ASSAM

6:RAJCHANDRA DEV SARANI UNNAYAN COMMITTEE
REP. BY ITS PRESIDENT NAMELY SRI GOPAL DAS
RANGPUR
BAIDYANATH SARANI SILCHAR
DIST. CACHAR
ASSAM

7:RAJU DEV
R/O RONGPUR SADARGHAT
SILCHAR
DIST. CACHAR
ASSAM

8:TAPAN DEV
R/O RONGPUR SADARGHAT
SILCHAR
DIST. CACHAR
ASSAM

9:PULAK DEV
R/O RONGPUR SADARGHAT
SILCHAR
DIST. CACHAR
ASSAM

10:PUNENDU DEV
R/O RONGPUR SADARGHAT
SILCHAR
DIST. CACHAR
ASSA

Advocate for the Petitioner : MR J I BARBHUIYA

Advocate for the Respondent : SC. REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

JUDGMENT

Date : 23-04-2024

Heard Mr. J.I. Borbhuiya, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue Department appearing for the

respondent No.1, Mr. K. Gogoi, learned Government Advocate, Assam appearing for the respondent Nos.2 & 3, Mr. S. Dutta, learned Senior Counsel assisted by Mr. S. Dutta, learned counsel for the respondent Nos.4 & 5 and Ms. S.S. Bora, learned counsel appearing for the respondent Nos.6—10.

2. Being aggrieved by the inaction of the respondent authorities, with regard to the illegal change of nomenclature of 'Baidyanath Sarani, Rongpur' in Ward No.5 of Silchar by the respondent No.6 to 'Raj Chandra Dev Sarani', on the ground of violation of the provisions of the Assam Municipal Act, 1956, the present Writ Petition is filed, praying for a direction to remove the signboard/hoarding from the Baidyanath Sarani, Rongpur, in Ward No.5 i.e. the road connecting from Southern side of the new Barak Bridge to Rajpath Road at Silchar, wherein the respondent No.6 has displayed the name of the road as "Raj Chandra Dev Sarani," without any authority of law and for consideration of the representations filed by the petitioner and the people of the area.

3. The petitioner claims to be the grandson of Late Baidyanath Nath, in whose name the road connecting from Southern side of the new Barak Bridge to Rajpath Road in Ward No.5 was recognized as 'Baidyanath Sarani, Rongpur', in the year 1997. It is projected that the grandfather of the petitioner Late Baidyanath Nath was the pioneer in journalism in the Barak Valley and was also associated with the freedom struggle in the area. In recognition of his contribution, the road in question had been named as the 'Baidyanath Sarani, Rongpur', following the procedure for recognition of such area and the road and the road connecting from Southern side of the new Barak Bridge to Rajpath Road is duly recognized and accepted as the 'Baidyanath Sarani, Rongpur', by the people of the area since last 25 years. It is also projected that in all the records including the address of the area is recognized as the 'Baidyanath

Sarani, Rongpur’.

4. It is contended by the petitioner that suddenly in the month of January, 2022, a signboard was found to be erected in the name of ‘Raj Chandra Dev Sarani’, by illegally changing the name of ‘Baidyanath Sarani, Rongpur’, without the knowledge of the inhabitants within the jurisdiction of Baidyanath Sarani, Rongpur area at Silchar and without the authority of law. It has come to the knowledge of the petitioner that the same has been erected at the instance of one committee, namely, Rajchandra Dev Sarani Unnayan Committee, represented by its President Sri Gopal Das, Respondent No.6 herein.

5. The petitioner has filed a representation before the D.C., Cachar at Silchar on 08.02.2022, placing his grievance against such action of the respondent Nos.6—10. The residents of the area, twenty two (22) in numbers, have also submitted an application for removing the signboards, wherein it is mentioned as the ‘Raj Chandra Dev Sarani’, before the Executive Officer of Silchar Municipal Board. However, no appropriate action has been taken by the Respondent authorities.

6. Mr. J.I. Barbhuiya, learned counsel for the petitioner submits that the respondent No.6 is a Committee, formed without any authority of law and the members of the Committee are persons with vested interest. The road/area in question has been recognized as the Baidyanath Sarani, Rongpur, by following the due procedure as required under the law and is being accepted since last 25 (twenty five) years. Mr. Barbhuiya further submits that the illegal act on the part of the respondent Nos.6—10 in erecting and putting up of hoarding/signboard by changing the nomenclature of “Baidyanath Sarani, Rongpur” to “Raj Chandra Dev Sarani”, is in violation of the provision of Section 170 of the Assam Municipal Act, 1956, wherein it is provided that the Board at a meeting may

cause a name to be given to any public road and to be affixed in such place as it may think fit, and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered. Therefore, he submits that, the authorities may be directed to remove signboard/hoardings forthwith and to consider the grievance of the petitioner by maintaining the same nomenclature as "Baidyanath Sarani, Rongpur".

7. Mr. S. Dutta, learned Senior Counsel appearing for the respondent Nos.4 & 5, referring to the affidavit-in-opposition filed on behalf of the respondent Nos.4 & 5, submits that without following the procedure of law, a fictitious committee has been formed in the name and style of Rajchandra Dev Sarani Unnayan Committee, without having any valid registration in terms of the law and without taking confidence of the Municipal Administration, wherein the private respondents have taken a decision to change the name of "Baidyanath Sarani, Rongpur" to "Raj Chandra Dev Sarani". Mr. Dutta further submits that it is a usual practice that if any change of name of the road is proposed by any organization, the Municipal Board usually issue notice for objection, if any, from any quarter and after hearing the objection, a decision is taken for any change. The change in the name of any road is absolutely an administrative decision and such decision cannot be taken by any private agency. In the present case, a private Committee, in the name and style of Rajchandra Dev Sarani Unnayan Committee has erected signboard/hoarding in the name of "Raj Chandra Dev Sarani" from "Baidyanath Sarani, Rongpur", without any authority of law.

8. Ms. S.S. Bora, learned counsel for the respondent Nos.6—10 submits that the road which was named as "Baidyanath Sarani, Rongpur" is located in a different place, other than the road which has been named as "Raj Chandra Dev Sarani". The road which is named as Raj Chandra Dev Sarani belongs to the

heirs of Late Raj Chandra Dev. Ms. Bora further submits that naming of the Raj Chandra Dev Sarani has been taken after a meeting by the people of the area, who have recognized the contribution of Late Raj Chandra Dev to the society, for which no interference is called for. Hence, she submits that the Writ Petition may be dismissed.

9. Due consideration has been extended to the submissions of learned counsel for the parties and also perused the materials available on record.

10. The road connecting from Southern side of the new Barak Bridge to Rajpath Road is Ward No. 5 at Silchar, has been named and recognized as "Baidyanath Sarani, Rongpur", in the year 1997. It is admitted position that a signboard in the name of "Raj Chandra Dev Sarani" has been erected in the said area, at the behest of respondent No.6, which is a committee formed by some persons of the locality claiming that the land/road falls under the land of heirs of late Raj Chandra Dev before it was acquired for construction of a bridge.

11. Section 170 of the Assam Municipal Act, 1956 provides for a procedure for naming of public road and number of houses, wherein it is provided that the Board at a meeting may cause a name to be given to any public road and to be affixed in such place as it may think fit, and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered. It further provides that any person who destroys, pulls down, defaces or alters any name or number put up by the Board shall, for every such offence, be liable to a penalty not exceeding Rs.20/-.

12. On bare perusal of the provision of Section 170 of the Assam Municipal Act, 1956, I find that the same provides for a procedure to be followed for naming of public road and numbering of houses by the Municipal Board. Thus,

no private individual or Committee has an authority to name any public road or number of houses under the Assam Municipal Act, 1956. That apart, though under the Act, there is no express provision for providing a notice, if the change or alteration is to be made to the existing name of the road/houses under the Municipal Board, a minimum notice requires to be sent to the affected parties, by following the cardinal principle of natural justice by the authority of the Board. It is noticed that the respondent Nos.6—10 appears have acted in contravention of the provisions under the Assam Municipal Act, 1956 and acted in a manner —as if, my way or the highway. It is also taken note that the respondent authorities have not initiated any action as required under the law.

13. It is settled law that where a manner of doing particular act is prescribed under Statute, the act must be done in that manner or not at all. As noted above, Section 170 of the Assam Municipal Act, 1956, provides a statutory mechanism and procedure.

14. In view of above and considering the nature of the issue involved and the specific prayer of the petitioner for consideration and disposal of the representation dated 27.01.2022 and 08.02.2022, this Court deem it appropriate to remit back the matter to the Executive Officer, Silchar Municipal Board for its consideration of the grievance of the petitioner and the people of the area.

15. Accordingly, it is directed that the respondent Nos.4 & 5, namely, the Silchar Municipal Board shall consider and dispose of the representations (Supra), by appropriately deciding the issue in accordance with the applicable Act and Rules, within a period of two (2) months, from the date of receipt of the certified copy of this order.

16. It is made clear that no private individual or committee, de hors the Law shall be allowed to interfere with and influence the decision of the Municipal

Board in naming the roads of the area under Silchar Municipal Board.

17. The Writ Petition stands disposed with the above directions. However, there is no order as to cost.

JUDGE

Comparing Assistant