

GAHC010058902023



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

Case No. : WP(C)/1567/2023

HEMANTA DEORI AND ANR.
S/O- LATE KULESWAR DEORI,
R/O- HOUSE NO. 2, ARUNUDAY PATH,
CHRISTIAN BASTI, GUWAHATI- 781005.

2: BIKASH BUCHA
S/O- SRI BACHH RAJ BUCHA

R/O- FLAT NO. T 5C
PROTECH PARK

HENGRABARI
GUWAHATI- 7810236

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
HOME AND POLITICAL DEPARTMENT,
GOVT. OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:OFFICE OF THE CHIEF MINISTER
ASSAM
REPRESENTED BY PRINCIPAL SECRETARY TO THE CHIEF MINISTER
CM BLOCK

JANATA BHAWAN (ASSAM SECRETARIAT)

DISPUR
GUWAHATI- 781006.

3:THE CHIEF SECRETARY
GOVT. OF ASSAM

DISPUR
GUWAHATI- 781006.

4:THE DIRECTOR
DIRECTORATE OF VIGILANCE AND ANTI COURRUPTION
ASSAM
SRIMANTAPUR
RUPNAGAR
GUWAHATI-32

5:DURLAV CHAMUA
S/O- LATE FATIK CHAMUA

R/O- FLAT NO. 6 C
6TH FLOOR
PROTECH VIEW APARTMENT

OPP. PRAJAPATI VIVAH BHAVAN

HENGRABARI ROAD
GUWAHATI- 781006

Advocate for the petitioner(s): Mr. B Bucha, the petitioner-in-person

Advocate for the respondent(s): Mr. KN Choudhury, Senior Advocate

Mr. AJ Das

For respondent No.5.

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

21.08.2024

Heard Mr. B Bucha, the petitioner-in-person.

2. Mr. KN Choudhury, the learned senior counsel assisted by Mr. AJ Das, appears on behalf of the respondent No.5 and Mr. D Nath, the learned Senior

Government Advocate appears on behalf of the respondent Nos.1, 2, 3 and 4.

3. The petitioner herein is aggrieved by the inaction on the part of the respondent authorities in not disposing of the proceedings for grant of a sanction as regards prosecution of respondent No.5 which was sought for by the Superintendent of Police, Directorate of Vigilance and Anti-Corruption Assam.

4. It is seen from the records that during the pendency of the instant writ petition the sanction has been refused, as would be apparent from a perusal of the affidavit filed by the Joint Secretary to the Government of Assam, Home and Political Department dated 24.07.2023. In that regard, the order dated 10.06.2023, by which the sanction has been refused is enclosed. The ground assigned in the order dated 18.06.2023 is that the respondent No.5 was not the President of the NGO namely, *Best Friend Society*, Nagaon during the period 2013-14 while the NGO received the grants-in-aid under the ADIP Scheme. It was also observed in the order dated 18.06.2023 that from investigation, it was found that the respondent No.5 was not the signatory of any document regarding any receipt or utilization of fund by the said NGO during the aforesaid period. It was also found upon investigation that the respondent No.5 did not take part in the process of receipt and utilization of the fund received by the NGO *Best Friend Society* from the Ministry of Social Justice and Empowerment, Government of India under the ADIP Scheme in the year 2013-14. Under such circumstances, the sanction which has been sought for in respect to the allegation of misappropriation of Government funds by the respondent No.5 was denied.

5. It is seen that pursuant to the said order being passed on 10.06.2023 and the same being brought on record vide an affidavit filed by the Joint Secretary to the Government of Assam, Home and Political Department in its affidavit

dated 24.07.2023, the petitioner has not challenged the said order dated 10.06.2023. This Court had asked the petitioner-in-person as to whether he would like to challenge the said order dated 10.06.2023, to which he submitted that he would not like to challenge the same by filing a separate writ petition. He submitted that he has assailed it by filing an affidavit in the instant proceedings. This Court explained the reasons why the petitioner is required to separately challenge the said order dated 18.06.2023, but the petitioner-in-person remained adamant not to challenge the same separately. Under such circumstances, when the sanction sought for had already been refunded, the continuance of the instant writ petition would only be an abuse of the process of the Court. Accordingly, the writ petition stands dismissed. In addition to that, it is pertinent to observe that without the challenge to the order dated 18.06.2023, the other reliefs sought for cannot be gone into.

6. This Court, however, observes that the dismissal of the writ petition shall not preclude the concerned respondent authorities to avail remedies as regards the refusal of the sanction made vide order dated 18.06.2023.

JUDGE

Comparing Assistant