

GAHC010068222024



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

Case No. : WP(C)/1832/2024

THE BUDUCHAR JALJALI MARKET MANAGEMENT COMMITTEE AND
ANR
BADUCHAR, GOALPARA, ASSAM- 783125, REPRESENTED BY ITS
SECRETARY.

2: HAZRAT ALI
THE SECRETARY
BUDUCHAR JALJALI DAILY MARKET
SON OF LATE HABIBAR RAHMAN
BASANTPUR
GOALPARA
ASSAM-783125

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT
DEPARTMENT, DISPUR, GHY, ASSAM-781006.

2:THE DISTRICT DEVELOPMENT COMMISSIONER
OFFICE OF THE DISTRICT COMMISSIONER GOALPARA (DEVELOPMENT
BRANCH)
GOALPARA
ASSAM-783125.

3:THE PRESIDENT
MATIA ANCHALIK PANCHAYAT
MATIA
GOALPARA
ASSAM-783125.

4:THE DISTRICT COMMISSIONER
GOALPARA

GOALPARA
ASSAM-783125.

5:AKITARA PARBIN
(LESSEE OF THE BUDUCHAR DAILY MARKET)
W/O- JAINUDDIN SHEIKH
VILL- SUNDARPUR
P.O. DOLGUMA
P.S. MATIA
GOALPARA
ASSAM-783125

Advocate for the Petitioner : MR. A K BARUAH, MR. D A KAIYUM (P-2),MR. M S MONDAL (P-2),MR. N MAHAJAN,MR A DAS,MR. R A PRAMANIK

Advocate for the Respondent : GA, ASSAM, MS. A KAUSHAR (R-3),MR S ISLAM (R-3),MR. A CHOUDHURY (R-3),MR T T MONI (R-5),MR. K NATH (R-5),MR. A M KHAN (R-5),SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

04.12.2024

Heard Mr. D.A. Kaiyum, learned counsel for the petitioners. Also heard Ms. U. Das, learned counsel for the respondent Nos.2 & 4. Ms. P. Thapa, learned counsel appears on behalf of Mr. S. Dutta, learned counsel for the P&RD Department.

2. The petitioners have put to challenge the order dated 01.03.2024 issued by the District Development Commissioner, Goalpara, and stopping the functioning of the Buduchar Jaljali Daily Market, on the ground that the enquiry conducted on the basis of which the impugned order has been issued, had been done behind the back of the petitioners. Further, the Enquiry Officer was also the District Development Commissioner, who had issued the impugned order

dated 01.03.2024.

3. The petitioners' case is that the Buduchar Daily Market has been settled with the respondent No.5 pursuant to a tender process. However, on the request of the concerned MLA, who was aware of the hardships being faced by the people living in the said area, a new Buduchar Jaljali Daily Market was opened w.e.f. 09.01.2024.

4. The petitioners' counsel submits that the State Government has not allotted land for the new market, even though the General Standing Committee of the Matia Anchalik Panchayat had resolved that the new Buduchar Jaljali Daily Market should be established, in its meeting resolution held on 05.01.2024.

5. Ms. U. Das, learned counsel for the respondent Nos. 2 & 4 submits that there is no approval given by the Government for setting up the new Buduchar Jaljali Daily Market, in terms of the Assam Panchayat Act, 1994 (hereinafter referred to as the 'Act'). He accordingly submits that when no approval has been given by the State Government for running a new market, the issuance of the impugned order directing the closure of the new market, cannot be faulted.

6. As per the provisions of the Act, once the Anchalik Panchayat holds a meeting and decides to open a new market, the approval of the Government is necessary, inasmuch as, the Government is to provide the land for the new market. The said land is thereafter to be allocated to the Anchalik Panchayat. In all cases of acquisition of land, the approval of the Zilla Parishad is also to be obtained. In the present case, there has been no approval given by the State

Government to open the new market and no decision has been taken for acquisition of land for running the market. The impugned order dated 01.03.2024 shows that the petitioners could not produce any documentary evidence of the public meeting held for opening the new market. The above issues are basically relating to questions of fact and the approval to be given by the State Government.

7. Mr. D.A. Kaiyum, learned counsel for the petitioners, at this stage submits that he may be allowed to withdraw the writ petition, with liberty to approach the appropriate authority, for granting approval for running the new market.

8. As the same is not objected to by the counsels for the respondents, this writ petition is closed as withdrawn, with liberty being given to the petitioners to approach the appropriate authority/authorities.

JUDGE

Comparing Assistant