

GAHC010083422024



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

Case No. : WP(C)/2229/2024

ABDUL MANNAN
S/O- ABDUL MALEK,
R/O- VILL.- SHILOCHI PATHAR,
P.O.- BALAJAN,
P.S.- BAGHBAR,
DIST.- BARPETA, ASSAM.
PIN- 781308.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
P AND R.D. DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
BARPETA
P.O. AND P.S.- BARPETA
DISTRICT- BARPETA
ASSAM.
PIN- 781301.

3:THE SUPERINTENDENT OF POLICE
BARPETA
P.O. AND P.S.- BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301.

4:BARPETA ZILLA PARISHAD
BARPETA- 781301
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

5:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
BARPETA. PIN- 781301.

6:MANDIA ANCHALIK PANCHAYAT
REPRESENTED BY ITS EXECUTIVE OFFICER

MANDIA
P.O.- MANDIA
DISTRICT- BARPETA
ASSAM
PIN- 781308.

7:THE OFFICER-IN-CHARGE
BAGHBAR POLICE STATION
P.O. AND P.S.- BAGHBAR
DISTRICT- BARPETA
ASSAM
PIN- 781308.

8:BAGHBAR BAZAR MANAGING COMMITTEE
AT NIZ BAGHBAR
P.O. AND P.S.- BAGHBAR
DIST.- BARPETA
ASSAM.
PIN- 781308

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : SC, P AND R.D.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

29.04.2024

- 1.** Heard Mr. A. Rashid, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned counsel for the respondent nos.1, 4, 5 & 6 and Mr. K. Gogoi, learned counsel for the respondent nos.2, 3 & 7.
- 2.** Mr. A. Rashid, learned counsel for the petitioner submits that the illegal

private cattle market run by the respondent No. 8 should be closed and the letter dated 12.04.2024 issued by the respondent No. 5, asking the petitioner to deposit an amount of Rs. 15,33,332/- should be set aside, as he has not been able to collect proper revenue, in view of the illegal private market run by the respondent No. 8.

3. The case of the petitioner is that he is the lessee of a market namely, Shewrar Bhita Janapriyo Anchalik Gorur Bazar, for the period from 01.07.2023 to 30.06.2024, pursuant to an NIT dated 03.05.2023 issued by the respondent No. 6. However, his business has been affected by the respondent No. 8, who is running a private cattle market, in violation of the Assam Cattle Preservation Act, 2021 and the Rules framed thereunder.

4. The petitioner's challenge to the running of the private cattle market by the respondent No. 8, vide WP(C) 6634/2023, culminated in the order dated 07.03.2024, wherein this Court held that unless and until the respondent No. 8 was given the approval for running the private market under Section 107 of the Assam Panchayat Act, 1994, the respondent No. 8 would be ineligible to run the market. The respondent No. 8 was however given three weeks' time to submit an application for running the private market with the authorities and till such time a decision was taken, the running of the private market was not to be disturbed.

5. The petitioner's case is that no approval has been given by the authorities to the running of the illegal private market by the respondent No. 8 and instead the petitioner has been asked to deposit an amount of Rs. 15,33,332/-, vide letter dated 12.04.2024.

6. On perusing the letter dated 12.04.2024 issued by the respondent No. 5, it

is seen that the petitioner has been asked to deposit Rs. 15,33,332/-, as the four cheques submitted by him had been returned back by the bank, due to insufficiency of funds, which had also been communicated to him. Further, the petitioner was to also pay the fifth installment of his bid amount.

7. The letter dated 12.04.2024 issued to the petitioner by the respondent No. 5 is reproduced hereinbelow:-

“Sub: - Regarding return of Cheque from the Bank due to insufficient funds.

With reference to the subject cited above I would like to inform you that the Chaque money you have deposited as Kist Money of Shewrar Bitha Janapriya Anchalik Garur Bazar in 4 Nos. of Chaque bearing No.000026, 000027, 000029, and 000030 of HDFC Bank Barpeta has returned back by the Bank Manager due to insufficient funds which have already been communicated to you over phone and physical meet repeatedly. As you have not given any positive response to the officials of this office and not even take any action to deposit the Chaque amount amounting to Rs. 3,83,333.00 per Chaque total amounting to Rs. 15,33,332.00 till today.

So you are once again directed to deposit the amount in Demand Draft to the office of the undersigned with consultation with the Accountant Barpeta Zilla Parishad within 7 (seven) days from the receipt of this letter. Failing of which the authority may take necessary legal action against you and may cancel the Settlement with you.

This is for your information and necessary action.”

8. On perusing the impugned letter dated 12.04.2024 which has been put to challenge by the petitioner, the same clearly shows that the petitioner's four cheques had bounced and as such, the State respondents had required the petitioner to not only pay the amount of money that had been due to the respondents, in terms of the four bounced cheques, but also to make payment of the subsequent *kist* money/installment that was due to the respondents, as the petitioner had been settled with the Shewrar Bitha Janapriyo Anchalik Gorur

Bazar.

9. On considering the above, it is clear that no right of the petitioner has been violated. On the other hand, the petitioner has given cheques, which he would, in all normal circumstances, know would bounce. The actions of the petitioner are not fair and they are not above board. In fact, the petitioner is trying to cover up his misdeeds on the basis of some other issue, which is not germane to the facts of this case. As such, this Court is of the view that besides there being no cause of action for the petitioner to file the present writ petition, the petitioner cannot be allowed to try and take advantage of his own misdeeds. Consequently, cost of Rs.5,000/- is imposed upon him, which should be paid with the Registry of this Court within a period of 1 (one) week from today. The cost should thereafter be disbursed to the Assam State Legal Services Authority.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant