

GAHC010112852022



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

Case No. : WP(C)/3870/2022

ZIAUR RAHMAN
S/O- ISMAIL HUSSAIN.
VILLAGE- BHUMURAGURI,,
P.O- HATIJUJUWA,
P.S- BATRADAVA, DIST- NAGAON, ASSAM, PIN-782122

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-06, ASSAM

2:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT

DISPUR
GUWAHATI-781006
ASSAM

3:ASSAM STATE DISASTER MANAGEMENT AUTHORITY
REP. BY THE CHIEF EXECUTIVE OFFICER
ANCILLARY BLOCK
JANATA BHAWAN
DISPUR
GUWAHATI-781006
ASSAM

4:THE DEPUTY COMMISSIONER
NAGAON
P.O AND P.S- NAGAON

DIST- NAGAON

ASSAM
PIN-782001

5:THE CHIEF EXECUTIVE OFFICER
NAGAON ZILLA PARISHAD

P.O AND P.S- NAGAON

DIST- NAGAON
ASSAM
PIN-782001

6:THE EXECUTIVE OFFICER
BATADRAVA ANCHALIK PANCHAYAT

P.O AND P.S- DHING

DIST- NAGAON
ASSAM
PIN-78212

Advocate for the Petitioner(s) : Mr. M. K. Hussain (Advoacte)

Advocate for the Respondent(s) : Ms. N. Borah (P and R D Department)

Date of Hearing and Judgment : 19.07.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGEMENT AND ORDER (ORAL)

Heard Mr. M. K. Hussain, the learned counsel appearing on behalf of the petitioner and Ms. N. Borah, the learned Standing Counsel appearing on behalf of the P & R D Department.

2. The instant writ petition has been filed by the petitioner seeking complete remission of the amount for the period from 22.07.2021 to 31.08.2021 and 50% remission from 01.09.2021 to 16.02.2022. In addition to that the petitioner has also assailed the communication dated 03.06.2022 on the ground that the concerned respondent authorities i.e. the Joint Secretary to the Government of Assam, Panchayat and Rural Development Department did not consider the factual matrix in the proper perspective.

3. Pursuant to the filing of the instant writ petition, this Court issued notice making it returnable by 4 (four) weeks. vide an order dated 10.06.2022. The matter has been pending since then and today Ms. N. Borah, the learned Standing Counsel, P & R D Department appearing on behalf of the respondents submitted that the question of remission in the case of the petitioner does not arise taking into account that during the period the petitioner was granted the license for running the bazaar in question and there was very less affect of the Covid Pandemic as well as the lockdown in the Nagaon District which had in any manner hampered the running of the bazaar in question. In addition to that the learned Standing Counsel also submitted on instructions that the Assam Cattle Preservation Act, 2021, no where had impacted the petitioner's business. It is therefore the submission of the learned counsel appearing on behalf of the respondents that the petitioner is neither entitled to the remission as claimed in the writ petition nor there is an requirement for interference with the order dated 03.06.2022.

4. It is also taken note of that during the pendency of the instant writ petition a notice was issued to the petitioner on 05.07.2024 directing the petitioner to make payment of 14,84,548/- being the remaining amount to which the petitioner is liable to make payment. It is also taken note of that the petitioner had challenged the said notice by filing a writ petition which is registered as WP(C) No. 3510/2024. However the said writ petition was withdrawn on 11.07.2024 thereby granting the liberty to pursue the instant proceedings.

5. This Court has duly heard the learned counsel appearing on behalf of the parties .The factual aspects which have been mentioned in the writ petition vis-a-vis the instructions which have been placed by Ms. N. Borah, the learned counsel, P & R D Department, appearing on behalf of the respondents, would require a factual determination by the respondent authorities and it is the opinion of this Court that based upon the said factual determination, it shall also impact the notice which was issued on 05.07.2024 directing the petitioner to make payment of Rs. 14,84,548/-. Under such circumstances as this factual determination can be very well taken note of by the respondent authorities this Court is of the opinion that the ends of justice would be met if the petitioner is given a liberty to submit a representation to the concerned respondent authorities who would be in a better position to factually determine as to whether any affect of the covid or the lockdown had impacted the petitioner's

business.

6. Accordingly, this Court disposes of the instant writ petition thereby giving the liberty to petitioner to submit a representation to the Principal Secretary, to the Government of Assam, Panchayat and Rural Development Department, Dispur within a period of 15 days from the date of the instant order wherein the petitioner, if so advised would be at liberty to place necessary materials as to the impact during the Covid as well as the lockdown and also as regards the impact of the Assam Cattle Preservation Act, 2021 to the business of the petitioner. If the said representation is submitted within the time as stated herein, the respondent authorities more particularly the Principal Secretary to the Government of Assam, Panchayat and Rural Development Department or its delegatee not below the rank of Joint Secretary to the Government of Assam, Panchayat and Rural Development Department shall decide on the said representation and pass a reasoned order on the said basis.

7. This Court also takes note of that any decision on the said representation would have an impact on the notice dated 05.07.2024 issued to the petitioner and as such the notice dated 05.07.2024, shall not be given effect to till the decision is made by the concerned authorities as directed above.

8. With the above, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant