

GAHC010115342016



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

Case No. : WP(C)/4298/2016

BIRSING JARUA ANCHALIK PANCHAYAT
REP. BY ITS PRESIDENT, SMT. FATEMA BEGUM, VILL.- SALMARA PART- IV,
P.O.- BONDI HANA, DIST.- DHUBRI, ASSAM, PIN- 783349.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
PANCHAYAT and R.D. DEPTT., DISPUR, GHY- 6.

2:ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM
TRANSPORT DEPTT.
DISPUR
GHY- 6.

3:DIRECTOR
INLAND WATER TRANSPORT
ASSAM
ULUBARI
GHY- 7.

4:EXECUTIVE ENGINEER
IWT DIVISION
ULUBARI
GHY- 7.

5:DHUBRI ZILLA PARISHAD
TO BE REP. BY CHIEF EXECUTIVE OFFICER
DHUBRI ZILLA PARISHAD
P.O.- DHUBRI
ASSAM
PIN- 783301.

6:BLOCK DEVELOPMENT OFFICER-CUM EXECUTIVE OFFICER
BIRSING JARUA ANCHALIK PARISHAD
DIST.- DHUBRI
ASSAM
PIN- 783301

Advocate for the Petitioner : MR.N ISLAM, MS.L WAJEEDA,MR.N H MAZARBHUYAN,MR.K MIRA

Advocate for the Respondent : SC, IWT, SC, TRANSPORT DEPARTMENT,ADDL. AG, ASSAM,MS.B BHUYAN,MR.Y DOLOI(R- 1-6),GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

20.08.2024

1. Heard Ms. L. Wajeeda, learned counsel for the petitioner. Also heard Ms. M.D. Borah, learned counsel for the Transport Department and Mr. S. Dutta, learned counsel for the P&RD Department.

2. The petitioner is the Birsing Jarua Anchalik Panchayat constituted under the provisions of the Assam Panchayat Act, 1994. The grievance of the petitioner is that the petitioner has been managing the operation of the Chitolkati (Narikolkhowa) to Choudhurychar Part-I (Fulkatari) Ferryghat for the last 20 years. However, vide notification dated 29.02.2016 issued by the Additional Chief Secretary to the Government of Assam, Transport Department, the said ferry service has been declared to be a public ferry and the control and management of the same has been handed over to the Transport Department.

3. The case of the petitioner is that under the provisions of the Control and Management of Ferries Rules, 1968, a new ferry service cannot be established over an existing ferry service run by the Panchayat (petitioner), as the same is in conflict with the provisions of Section 49(12)(c) of the Assam Panchayat Act, 1994. The petitioner has thus prayed for setting aside the notification dated 29.02.2016.

4. Mr. S. Dutta, learned counsel for the P&RD Department submits that the matter pertains to the handing over of the ferry service to Transport Department from the Anchalik Panchayat and as such, the matter may be decided by the Chief Secretary of the State.

5. Ms. M.D. Borah, learned counsel for the Transport Department submits that the matter has become infructuous, as the ferry service is now being run only by the Transport Department for the last few years. She also does not have any objection to the prayer made by Mr. S. Dutta, learned counsel for the P&RD Department.

6. Ms. L. Wajeeda, learned counsel for the petitioner also submits that she does not have any objection to the proposal made by the counsel for the P&RD Department.

7. In view of the consent of the parties, this writ petition is disposed of with a direction to the petitioner, to approach the Chief Secretary of the State by way of a representation. The Chief Secretary shall thereafter take a decision on the

petitioner's representation within a reasonable time period.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant