

GAHC010120102015



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

Case No. : WP(C)/5086/2015

KOKRAJHAR CHIRANG MAURIYA RELIEF COMMITTEE and ANR.
REP. BY ITS PRESIDENT, HAVING ITS OFFICE AT DURGAPUR BIKRAMPUR,
P.O. BENGTOLE, P.S. BENGTOLE, DIST- CHIRANG, BTAD, ASSAM

2: THE GENERAL SECY.
KOKRAJHAR CHIRANG MAURIYA RELIEF COMMITTEE
OFFICE AT VILL. DURGAPUR
BIKRAMPUR
P.O. and P.S. BENGTOLE
DIST- CHIRANG
BTAD
ASSAM

VERSUS

THE UNION OF INDIA and 9 ORS
REP. BY THE SECY. TO THE UNION OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI

2: THE STATE OF ASSAM
REP. BY THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
RELIEF AND REHABILITATION BRANCH
DISPUR
GHY-6

3: THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
ASSAM
DISPUR
GHY-6

4: THE BODOLAND TERRITORIAL COUNCIL
REP. BY THE PRINCIPAL SECY.

BODOFA NAGAR
KOKRAJHAR
BTAD
ASSAM

5:THE SECY.
LAND REVENUE and DM DEPTT.
BTC
BODOFA NAGAR
KOKRAJHAR
BTAD
ASSAM

6:THE DY. COMMISSIONER
KOKRAJHAR
DIST- KOKRAJHAR
BTAD
ASSAM

7:THE DY. COMMISSIONER
CHIRANG
KAJALGAON
DIST- CHIRANG
BTAD
ASSAM

8:THE CIRCLE OFFICER
DOTMA REVENUE CIRCLE
P.O. DOTMA
DIST- CHIRANG
BTAD
ASSAM

9:THE CIRCLE OFFICER
KOKRAJHAR REVENUE CIRCLE
KOKRAJHAR
DIST- KOKRAJHAR
BTAD
ASSAM

10:THE CIRCLE OFFICER
SIDLE REVENUE CIRCLE
SIDLE
DIST- KOKRAJHAR
BTAD
ASSA

For the Petitioner(s) : Mr. K. R. Patgiri, Advocate
For the Respondent(s) : Mr. R. Borpujari, Standing Counsel
: Mrs. R. B. Bora, SC, BTC

Date of hearing : **01.02.2024**

Date of Judgment : **01.02.2024**

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

1. The instant writ petition has been filed by a registered society espousing the cause of 4285 families who were allotted lands by the Government but such lands which were allotted have been eroded by floods caused by the river Sarabhanga, Aie, Champa (Bhur), Kumguri and such have sought for fresh allotment and/or further seeking a rehabilitation of Rs.50,000/- per victim family of the Petitioners for the purpose of purchase of land/construction of houses as the similarly situated victim families already received the same.

2. From a perusal of the writ petition, it reveals that the Petitioners themselves admitted that they were allotted lands however such lands have been eroded in view of the river changing its course. Therefore, these Petitioners would come within the ambit of Clause 1.7 of the Land Policy, 2019. However, for the grant of settlement, the members of the Petitioner association would be required to apply individually in terms with the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 as well as the Land Policy of 2019. It is the opinion of this Court that if the members of the

Petitioner association are erosion affected persons, they would be entitled to make necessary application as per the provisions of law as above stated and upon making such applications, the Respondent Authorities are also required to consider the same in view of its Land Policy, 2019.

3. Accordingly, this Court grants liberty to the members of the Petitioner association to respectively apply before the Secretary, Land Revenue & DM Department, Bodoland Territorial Council for allotment of land in terms with Land Policy, 2019 and upon application, the said authorities shall duly decide the entitlement of the respective applicant who are the members of the Petitioner association in terms with the Land Policy, 2019 within a period of 8 months from the date of such applications, if so filed. The respective members of the Petitioner association who were earlier allotted shall file their respective applications for seeking allotment along with the credentials that they were earlier allotted.

4. The above therefore takes care of the first relief so sought for in the writ petition. As regards the second relief which have been sought for i.e. for a direction to pay a rehabilitation grant of Rs.50,000/- per victim family of the Petitioners, this Court finds it very pertinent to take note of the affidavit filed by the Respondent No.2 wherein it has been mentioned that in case of families affected in 1996 and 1998 violence, the Government prepared a 4 (four) phase Action Plan. The various phases have been mentioned in a tabulated form which are quoted herein under.

<i>Phase I</i>	<i>Families from Revenue Villages and Forest Villages, which could go back to the Revenue and recognized Forest Villages without security or with the existing security arrangements and the forest encroachers who could purchase patta land in</i>
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	<i>Kokrajhar and neighbouring districts on their own were included in this phase.</i>
<i>Phase II</i>	<i>Families from recognized Forest Villages who could go back after provision of minimum security were included in this phase.</i>
<i>Phase III</i>	<i>Families from isolated Forest Village in the northern part of the district who could go back after provision of additional security were included in this phase.</i>
<i>Phase IV</i>	<i>Forest encroacher families and families who had no land to go back and who required arrangement of land in neighbouring and other districts were included in this phase.</i>

5. It was mentioned in the said affidavit-in-opposition that the people who were in Phase-I, II, III were rehabilitated. However, as regards the people who were in phase IV for whom land had to be arranged, they continued to live in the relief camps. The Government in spite of great difficulties could not rehabilitate these families and under such circumstances, the maintenance of the said relief camps became burdensome for the Government in view of the financial involvement and other issues in the domain of human rights. Under such circumstances, it was decided in a meeting held on 27.05.2009 that the Chief Minister of Assam would decide the quantum as one time lump sum financial assistance to be provided to each family as full and final rehabilitation grant. Accordingly, the Government of Assam fixed Rs.50,000/- as the lump sum rehabilitation grant per family for which necessary funds were released and 7,951 families and 2,090 families were rehabilitated. It was stated that the Petitioners do not fall within the said group for which it was further stated that the question of directing the Respondent Authorities to sanction Rs.50,000/- for rehabilitation of the members of the Petitioner association do not arise.

6. This Court however cannot also be unmindful of the fact that the victims in the Phase-IV were rehabilitated in view of the fact that the lands could not be allotted to them in spite of best efforts on the part of the State Government. It is an admitted fact that the members of the Petitioner association fall within the ambit of the Phase I, II and III, and were granted allotments. However, if such lands were allotted to the members of the Petitioner association and such lands have already been eroded, the members of the Petitioner association for whom the instant writ petition is filed would be similarly placed with the persons in Phase-IV as the allotted lands no longer exists. Under such circumstances, this Court observes and directs that in the eventualities after making individual applications by the members of the Petitioner association, the Government is of the opinion that such members of the Petitioner association cannot be allotted or settled any land, then the Revenue and Disaster Management Department of the Government of Assam has to take a call as to how the said members of the Petitioner association could be rehabilitated. This aspect however would fall absolutely within the executive domain and as such this Court at this stage would not like to pass any directions. This Court observes and believes that the State of Assam and more particularly the Revenue and Disaster Management Department of the Government of Assam shall take a due call as to how such members of the Petitioner association can be rehabilitated, if lands cannot be allotted pursuant to the filing of the individual applications. This Court finds it relevant to observe and reiterate that the members of the Petitioner Association for whom the instant writ petition has been filed would be similarly situated to those persons in Phase-IV, if no lands can be allotted to them and therefore are required to be similarly situated.

7. Accordingly, the instant writ petition therefore stands disposed of with the

following observations and directions:

- (i) The members of the Petitioner Association are given the liberty to file individual application per family seeking allotment of fresh lands as per the Land Policy of 2019 read with the Settlement Rules. Along with such application, each applicant shall enclose their earlier settlement details along with documents. The said application shall be filed before the Secretary, Land Revenue and Disaster Management Department, BTC.
- (ii) Upon such application received, the concerned authorities shall verify as to whether the Applicant was allotted land earlier and as to whether such land existed or eroded. Upon such verification, if it is found that the Applicant was in fact allotted lands earlier and such lands do not exist in view of erosion, necessary steps be taken for allotment of fresh lands.
- (iii) In the eventuality, the lands are not available to be allotted, the Secretary, Land Revenue and Disaster Management Department, BTC shall inform the Commissioner and Secretary, Revenue and Disaster and Management Department of the Government of Assam and thereupon the authorities shall carry out necessary verifications in that regard. This Court further directs that after verification, if it is found that such deserving applicants cannot be allotted lands due to non-availability of lands, then such applicants have to be taken as persons similarly situated to those persons in Phase-IV and be granted similar rehabilitation package.
- (iv) The entire exercise be carried out within 1 (one) year from the date of submission of the application by the individual applicants along with all credentials that such applicants were earlier granted allotment.
- (v) The Registry shall serve copies of this order to Mr. R. Borpujari, the learned

Standing counsel for the Revenue Department and Mrs. R. B. Bora, the learned
Standing counsel for the BTC for needful compliance.

JUDGE

Comparing Assistant