

GAHC010121342023



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

Case No. : WA/201/2024

THE BODOLAND TERRITORIAL COUNCIL, KOKRAJHAR AND ANR.
REPRESENTED BY ITS PRINCIPAL SECRETARY, DISTRICT- KOKRAJHAR,
PIN-783370.

2: THE JOINT SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR, ASSAM 78337

VERSUS

PRADIP KUMAR BASUMATARY AND 8 ORS. E
S/O LATE RAM KISHORE BASUMATARY, VILLAGE GOSSAIGAON, P.O-
RANCHADHAM, P.S- BASUGAON, DISTRICT- CHIRANG, PIN-783372.

2:MWGTANG BORO
S/O SRI CHANDI CH. BORO
VILLAGE- GHORAMARA
PO RANCHADHAM
PS BASUGAON
DIST. CHIRANG, PIN-783372

3:RANJIT RAPHAEL KUJUR
S/O RAJENDRA KUJUR
VILLAGE-DALOABARI T.E.
PO AND PS KOKRAJHAR
DIST. KOKRAJHAR
DIST. KOKRAJHAR, PIN-783370

4:DIPAK CHANDRA ROY
S/O KHITINDRA MOHAN ROY
VILLAGE-DUMARDAHA PT-1
PS GAURIPUR
DIST. DHUBRI, PIN-783331

5:DURJYADHAN MOCHAHARY
S/O BAPU RAM MOCHAHRY VILLAGE 2 NO. JHARGAON
PO-ROUTA CHARIALI
PS- UDALGURI, DIST. UDALGURI

6:THE STATE OF ASSAM
REPRESENTED BY ITS CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR GUWAHATI 06

7:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF WELFARE OF PLAN TRIBES AND BACKWARD CLASSE

Advocate for the Petitioner : MR. S BORA

Advocate for the Respondent : Mr. S. Biswas, Advocate.
Mr. A. Boro, Advocate.
Mr. R. Dhar, Standing Counsel, Tribal Affairs (P).

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 18-06-2024

(Vijay Bishnoi, CJ)

This Writ Appeal is filed by the appellants, challenging the order dated 09.11.2018, passed by the learned Single Judge in Writ Petition (C) No.1812/2018.

(2) The respondent Nos.1—5 herein have filed the Writ Petition (C) No.1812/2018, before this Court with the prayer to give a direction to the respondent authorities to implement the order dated 20.02.2017, whereby the State of Assam had approved creation of twenty eight (28) numbers of posts (Gazetted and Non-Gazetted) category for Industrial Training Institute (ITI), Salakati. The respondent Nos.1—5 have also prayed that the BTC be directed to

fill the posts created by the State Government.

(3) To substantiate their claim, the respondent Nos.1—5 herein have relied upon a tripartite Memorandum of Understanding (MOU), executed between the State, the appellant BTC and the NTPC, dated 12.07.2011, wherein the three parties to the MOU had agreed to set up an ITI. As per the said agreement, the appellant BTC is required to bear the recurring expenses such as payment of salaries and other administrative expenses for running the institute with the clear understanding that there shall not be any financial implication on the part of the State Government.

(4) The learned Single Judge taking note of the above fact, particularly taking into consideration the terms and agreement of the MOU has disposed of the Writ Petition with the direction to the respondents, particularly to the appellant BTC to implement and execute the Government's order dated 20.02.2017, passed in terms of the MOU arrived at between the parties on 12.07.2011, within a period of six (6) months from the passing of the order.

(5) It appears that being aggrieved with the order dated 09.11.2018, the appellants have preferred a Review Petition before the learned Single Judge. However, the said Review Petition No.96/2019 came to be dismissed by the learned Single Judge on 12.03.2020. In the Review Petition, the appellants have taken a ground that the BTC is not able to act in accordance with the MOU and the Government's order dated 20.02.2017, due to the financial constraints faced by the BTC. It was specifically contended that the Finance subject is not entrusted to the BTC and therefore, the BTC cannot bear the expenses, such as payment of salaries and other administrative expenses for running the ITI in question.

(6) The learned Single Judge dealing with the said arguments of the appellants raised in the Review Petition has observed that if the Finance subject is not entrusted to the BTC, how the BTC has entered into the MOU with the State as well as with the NTPC and that cannot be a ground to review the order passed in the Writ Petition (C) No.1812/2018.

(7) Similar ground is raised by the learned counsel for the appellants in this Appeal, insisting that since the Finance subject is not entrusted to the BTC, the recurring expenses, such as payment of salaries and other administrative expenses cannot be borne by the appellant BTC as per the condition of the MOU.

(8) Having heard the learned counsel for the appellants, we are of the view that in the MOU dated 12.07.2011, the BTC has agreed for bearing the recurring expenses of the ITI in question, supposedly while knowing that the Finance subject is not entrusted to it. Once the MOU is signed by the BTC, it is not open for the BTC to wriggle out of that MOU by making excuses, which certainly are very well known to it at the time of signing the MOU.

(9) Keeping in view the above facts and circumstances of the case, we are of the view that no case for interference is made out in the impugned judgment. Hence the appeal is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant