

GAHC010139392022



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

Case No. : WP(C)/4658/2022

SENCOWA BALI CHAPORI BHATI NAMGHAR PORICHA SOMITTEE
AT MAJULI, REPRESENTED BY ITS PRESIDENT SRI KANAK DAS, AGED
ABOUT 52 YEARS, SON OF LT. DHONESOR DAS, R/O- VILLAGE-
SENCOWA, P.O.- SAMOGURI SATRA, P.S. KAMALABARI, DIST- MAJULI,
PIN- 785110.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY COMMISSIONER SECRETARY, REVENUE DEPARTMENT,
GOVT. OF ASSAM AT DISPUR, GHY-5.

2:DISTRICT MAGISTRATE MAJULI
AT MAJULI.

3:SUPERINTENDENT OF POLICE
AT MAJULI.

4:ADDITIONAL DISTRICT MAGISTRATE MAJULI
AT MAJULI.

5:CIRCLE OFFICER
MAJULI.

6:OFFICER-IN-CHARGE
MAJULI P.S.
DIST- MAJULI.

7:AJIT HAZARIKA
SON OF SRI JIBON HAZARIKA
RESIDENT OF SENCOWA BALI CHAPORI
P.S. MAJULI

DIST- MAJULI
ASSAM.

8:PRAMOD DAS
SON OF LT. SUDHAR DAS
RESIDENT OF SENCHOWA BALI CHAPORI
P.S. MAJULI
DIST- MAJULI
ASSAM

Advocate for the Petitioner : MR. SK N MOHAMMAD

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.04.2024

Heard Mr. Sk. N. Mohammad, learned counsel for the petitioner. Also heard Mr. B.J. Talukdar, learned senior counsel, assisted by Mrs. P.R. Mahanta, learned standing counsel for the Revenue Department, respondent no.1; Mr. P.K. Medhi, learned Govt. Advocate for respondent nos.2 to 6; and Mr. N. Barman, learned counsel for the respondent nos.7 and 8.

2. The petitioner claims that the Senchowa Bali Chapori Bhati Namghar at Majuli was established in the year 1887. It is projected that during the year 2015-21, under the then President of Parichalana Samittee, namely, Ajit Hazarika, respondent no.7 took grant-in-aid to the extent of Rs.4.00 lakh and Rs.9.00 lakh respectively, which was given for development of the said namghar and its area. The petitioner projects that the gate of the said namghar called *batsora* was old and in a dilapidated condition, but the respondent no.7 did not incur any expenditure for its restoration and therefore, under the presidentship of Kanak Das of Senchowa Bali Chapori Bhati Namghar Parichalana Samittee,

the construction of the said *batsora* was started. However, on a complaint made by respondent no.7 and 8, the District Commissioner, Majuli had held a public meeting on 29.06.2022 and a resolution was adopted asking the namghar to remove the construction of the said *batsora* on or before 20.07.2022 and to clear the road to the nearby school.

3. In this writ petition, it is contended that there is an alternative road to the said school, which is in use and it is submitted that the said *batsora*, which is an integral part of the said namghar was constructed long back and therefore, by filing this writ petition under Article 226 of the Constitution of India, the petitioner is seeking for setting aside or quashing of the minutes of the meeting dated 29.06.2022, which was signed by the District Magistrate, Majuli (respondent no.2).

4. The learned senior counsel for the respondent no.1, the learned Govt. Advocate, and the learned counsel for the respondent nos.7 and 8 have all submitted that the land is a Govt. land earmarked for a road and the unauthorized construction affects that people at large in the area. Countering the said submissions, the learned counsel for the petitioner has reiterated that the land over which *batsora* was constructed was pre-existing since the date of establishment of the said namghar. However, it was old and in dilapidated condition. Accordingly, it is submitted that the construction is an old construction and only a facelift was given to the said dilapidated *batsora*.

5. It is noticed that in support of the writ petition, the petitioner has annexed a copy of Certificate of Proof bearing no. J.K.C. 86/19 dated 11.01.2019 as Annexure-C to the writ petition, wherein it is certified that the land measuring 2 katha 6 lecha pertains to Govt. dag situated at Bhati Senchuwa Balisapori Krishti Kendra and the said certificate is purportedly signed

by the Circle Officer, Majuli Revenue Circle. Therefore, there is no dispute that the land on which the said gate/*batsora* is pre-existing or being constructed is otherwise a Govt. land.

6. We find from letter dated 10.05.2021 issued by the Additional District Magistrate (Annexure-D to the writ petition), a public complaint from the respondent no.6 and 33 others was received regarding unlawful construction being carried out on a public road and the said authority had noted that in the field visit. It was found that the road was blocked by some persons in association with namghar and there are around 24 families who are using the road for their movement, and that the students, teachers, and guardians of the nearby LP School is also using the said road. The said stand is also reiterated in the affidavit-in-opposition filed by the respondent no.2, *inter alia*, clarifying that the certificate dated 11.01.2019, issued by the Circle Officer, Majuli Revenue Circle reflects the name of the institution as Bhati Senchowa Balichapori Kristi Kendra and not Bhati Senchowa Balichapori Krich Bondh.

7. Therefore, from the stand taken by the District Magistrate, Majuli in the affidavit-in-opposition, the land over which the gate/*batsora* has been constructed, is a Govt. land and is used as a road by the public.

8. Although the learned counsel for the petitioner has submitted that the namghar is a religious institution and the structure is pre-existing, however, there is no document to indicate that the occupation of the Govt. land for the said gate/*batsora* has the approval of the concerned respondent authorities like District Commissioner or the Circle Officer or the Land Revenue Department of the State.

9. Therefore, without commenting on whether the gate/*batsora* is pre-

existing or not, but the field report indicates that the said construction is obstructing the public road. Therefore, the interest of the petitioner namghar has to give way for the public welfare and benefit and therefore, the writ petition is found of to be devoid of any merit.

10. Accordingly, this writ petition is dismissed and the parties are left to bear their own cost.

JUDGE

Comparing Assistant