

GAHC010146992024



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

Case No. : WP(C)/3708/2024

DHANSIRI TRUCK OWNERS ASSOCIATION
A REGISTERED ASSOCIATION, HAVING ITS REGISTERED OFFICE AT
SARUPATHAR, P.O. AND P.S. SARUPATHAR, DISTRICT- GOLAGHAT,
ASSAM- 785601, REPRESENTED BY ITS SECRETARY SRI DHARANI KALITA
(AGE-62 YEARS)

VERSUS

THE STATE OF ASSAM AND 2 ORS
THROUGH THE SECRETARY TO THE GOVERNMENT OF ASSAM,
MUNICIPAL ADMINISTRATIVE DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE SECRETARY
MUNICIPAL ADMINISTRATIVE DEPARTMENT
DISPUR
GUWAHATI- 781006

3:THE DIRECTOR
MUNICIPAL ADMINISTRATION DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 78100

Advocate for the Petitioner : MR. M AGARWALLA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

26.07.2024

Heard Mr. A.R. Bhuyan, learned counsel for the petitioner, who submits that the petitioner is a registered Association of commercial truck owners of the Dhansiri area in the district of Golaghat, Assam, who are engaged in the plying of their vehicles for transportation of goods/materials throughout the state of Assam. The vehicles of the petitioner Association are however, made to pay parking fees/taxes for parking of the vehicles in the area covered under the Golaghat Municipal Board.

2. The petitioner's counsel submits that the Golaghat Municipal Board and their agents/representatives cannot collect parking fees/taxes from the members of the petitioner Association, in terms of the decision passed by this Court in the case of ***Kolong Valley Bus Santha Vs. State of Assam***, reported in ***(1996) 1 GLR 209***, inasmuch as, the vehicles of the petitioner Association do not come within the definition of 'carriage', as provided in Section 3(3) of the Assam Municipal Act, 1956.

3. The petitioner's counsel submits that though the petitioner has submitted a representation dated 20.10.2022 to the respondent No.3, to restrain the Municipal Boards within the state of Assam from collecting parking fees/taxes from the truck owners, the said representation has not been decided till date. He submits that this writ petition can be disposed of, if the respondent No.3 is directed to take a decision on the petitioner's representation dated 20.10.2022, after giving an opportunity of hearing to the petitioner and the Golaghat

Municipal Board and/or any other Municipal Board.

4. Mr. S.R. Baruah, learned counsel for all the respondents submits that he has got no objection to the prayer made by the petitioner's counsel.

5. In view of the consent of the parties, the respondent No.3 is directed to take a decision on the petitioner's representation dated 20.10.2022, after giving an opportunity of hearing to the petitioner and the Golaghat Municipal Board and/or any other Municipal Board. The respondent No.3 shall also take into consideration the decision of this court in ***Kolong Valley Bus Santha (supra)*** and decide whether the Municipal Board and its agents can collect parking fees/taxes from truck owners carrying commercial goods. The respondent No.3 shall take a decision on the petitioner's representation within a period of 2(two) months, from the date of receipt of a certified copy of this order along with a copy of the writ petition. Till a decision is taken by the respondent No.3, the respondent No.3 shall ensure that the Golaghat Municipal Board does not collect parking fees/taxes from the members of the petitioner Association, for parking their vehicles while distributing materials in the area covered by the Golaghat Municipal Board. The above is subject to the condition that the petitioner submits a copy of this order and a copy of the petition within a week from today, to the respondent No.3.

6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant