

GAHC010181742024



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

Case No. : WP(C)/4555/2024

BONOSHREE SAIKIA
D/O- SUSHIL SAIKIA,
RESIDENT OF VILLAGE- BARUA BARI GAON,
POST OFFICE- JORHAT,
POLICE STATION- JORHAT,
DISTRICT- JORHAT, ASSAM,
PIN-785101.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
TRANSPORT DEPARTMENT,
GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:THE MANAGING DIRECTOR
ASSAM STATE TRANSPORT CORPORATION
PALTAN BAZAR
GUWAHATI
PIN- 781008.

3:THE CHIEF ENGINEER (CIVIL)
ASSAM STATE TRANSPORT CORPORATION
PALTANBAZAR
GUWAHATI
PIN- 781008.

4:THE ASSISTANT EXECUTIVE ENGINEER (CIVIL)
ASSAM STATE TRANSPORT CORPORATION
PALTANBAZAR

GUWAHATI
PIN- 781008.

5:THE CHIEF ENGINEER(CIVIL)
ASSAM STATE TRANSPORT CORPORATION
JORHAT
PIN -781036.

6:THE DIVISIONAL SUPERINTENDENT
IN-CHARGE
ASSAM STATE TRANSPORT CORPORATION
JORHAT
PIN- 781036.

7:THE DISTRICT COMMISSIONER
JORHAT DISTRICT
JORHAT
785001

Advocate for the Petitioner : MR. K N CHOUDHURY, N GAUTAM,MS N MAHANTA,MISS. R R KAKATI

Advocate for the Respondent : SC, TRANSPORT DEPARTMENT, ASSAM, GA, ASSAM,SC, A S T C

BEFORE

HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

29.10.2024

Heard Ms. R.R. Kakati, learned counsel for the petitioner. Also heard Mr. R.M. Das, learned Standing Counsel, ASTC, Mr. M. Chetia, learned Junior Government Advocate for the respondent No. 7 and Mr. R.B. Goswami, learned Standing Counsel, Transport Department.

2. By way of this petition under Article 226 of the Constitution of India, the

petitioner is seeking direction to the respondent authorities to hand over the vacant and peaceful possession of an area of 400 sq.ft. at ISBT as described in the NIT dated 02.01.2024.

3. The facts of the case is that the respondent authority floated NIT dated 01.02.2024 inviting tender from the individuals and registered firm/Company or any other Commercial Organization for leasing out space measuring an area 400 sq.ft. for running a business at ISBT, Assam State Transport Corporation, Jorhat. The petitioner participated in the tender process and resulted as the highest bidder and accordingly, the said premises was allotted to the petitioner by letter dated 22.03.2024.

4. Pursuant to the aforesaid allotment, an agreement was executed on 22.05.2024 between the petitioner and the respondent authorities for running business in the allotted space for a period of 3 (three) years w.e.f. 01.06.2024 to 31.05.2027 at a monthly Licence fee of Rs. 8,000/-. However, since despite of execution of the aforesaid agreement, the requisite space/area having not being handed over to the petitioner, the present writ petition has been filed.

5. Ms. R.R. Kakati, learned counsel for the petitioner submits that despite repeated representation for allotment of the space, the respondent authorities have not allotted the subject space/area.

6. On the other hand, Mr. R.M. Das, learned Standing Counsel, ASTC submits that in view of the encroachment by several shop keepers in the subject allotted space, the space could not be allotted to the petitioner.

7. Mr. M. Chetia, learned Junior Government Advocate for the respondent No.

7 submits on the basis of the instruction received by letter dated 26.09.2024 that the District Commissioner, Jorhat is not the competent authority to allot the area under question and the same being the prerogative of the ISBT, Assam State Transport Corporation, Jorhat Division, the said authority is entitled to take requisite measures to facilitate allotment of the space in question.

8. I have given my prudent consideration to the arguments made by the learned counsels for the parties and have perused the materials available on record.

9. It appears that because of the encroachment by 9 (nine) numbers of shop keepers in the subject area, the respondent ASTC, Jorhat Division could not allot the requisite space to the petitioner in terms of the Agreement dated 22.05.2024.

10. In view of the aforesaid, this Court deems appropriate in the interest of justice, to dispose of this writ petition by directing the respondent ASTC to take necessary measures with the help of the District Administration to remove the encroachers from the subject space/area in accordance with law and make the subject space/area available to the petitioner in terms of the Allotment Order dated 22.03.2024 and Agreement dated 22.05.2024.

11. Let the aforesaid exercise be completed within a period of 1 (one) month from the date of receipt of a certified copy of this Court's order.

12. Accordingly, the writ petition stands disposed of.

13. A copy of the instruction dated 26.09.2024 furnished by Mr. M. Chetia,

learned Junior Government Advocate is kept on record and marked as 'X'.

JUDGE

Comparing Assistant