

GAHC010189652024



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

Case No. : WP(C)/4868/2024

DULUMONI DAS
S/O- LATE NAREN DAS, R/O- VILL.- DADRA, MOUZA- PUB BANSOR, P.O.
DADRA, P.S. HAJO, DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY COMMISSIONER AND SECRETARY DEPARTMENT OF
PHE, DISPUR, GUWAHATI-06.

2:DIRECTOR OF PUBLIC HEALTH ENGINEERING
C/O- OFFICE OF THE PUBLIC HEALTH ENGINEERING
HENGRABARI
GUWAHATI
DIST. KAMRUP(M)
ASSAM

3:THE CHIEF ENGINEER
C/O- OFFICE OF THE PUBLIC HEALTH ENGINEERING
HENGRABARI
GUWAHATI
DIST. KAMRUP(M)
ASSA

Advocate for the petitioner(s): Mr. DK Sharma

Advocate for the respondent(s): Mr. D Gogoi

Standing Counsel, PHE

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

23.09.2024

Heard Mr. DK Sharma, the learned counsel appearing on behalf of the petitioner. Also heard Mr. D Gogoi, the learned Standing Counsel for the PHE Department.

2. Taking into account the disputes involved in the instant proceedings, this Court is of the opinion that the writ petition can be disposed of at the motion stage itself.

3. The case of the petitioner herein is that a plot of land ad measuring 12 lechas covered by Dag No.79 of K.P. Patta No.389 of village Pub-Dadara under Pub Bongsor Mouza in Hajo Revenue Circle in Kamrup District was owned by his father. It is the further case of the petitioner that for the purpose of construction of a water supply project, the respondents in the PHE Department had taken the land from the petitioner's father by giving an assurance that a family member of the petitioner would be given an appointment in the Department. At that point of time, the petitioner was a minor and as such, not eligible for appointment. Subsequently, on attaining majority, the petitioner submitted a representation to the respondent authorities for considering him for

appointment in lieu of the land. The respondent authorities, however, had not taken note of the representation so submitted and it is under such circumstances, the instant writ petition has been filed.

4. The learned counsel appearing on behalf of the petitioner submitted that the fact that 12 lechas of land belonging to the petitioner had been taken by the PHE Department of the Government of Assam is not in dispute and, therefore, he submitted that the petitioner herein ought to have been given an appointment as per the assurance given by the Department.

5. On the other hand, Mr. D Gogoi, the learned counsel appearing on behalf of the PHE Department submits that the Department has no policy for granting appointment in lieu of any land being donated and, as such, the question of the petitioner having any legitimate expectation for being given an appointment does not arise. He, further submitted that the *Doctrine of Legitimate Expectation* would only arise on the basis of a policy and in absence of the policy or mandate as per law, the question of there being a legitimate expectation does not arise. The learned counsel, therefore, submitted that it is a fit case to dismiss the writ petition *in limine*.

6. This Court has given an anxious consideration to the respective submissions of the learned counsel appearing on behalf of the parties and is of the opinion that if there is no policy for giving appointment in lieu of donation of any land, the petitioner herein cannot claim any right even for consideration that he should be considered for appointment in lieu of the land so donated.

Under such circumstances, this Court does not find the instant case to be a fit case for exercising the powers under Article 226 of the Constitution, for which, the same stands dismissed.

7. Before parting with the records, this Court finds it pertinent to observe that the dismissal of the instant writ petition shall not act as a bar for the petitioner to agitate his grievance for compensation for the land so taken by the PHE Department for construction of the water supply project.

8. Writ petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant