

GAHC010215032024



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

Case No. : WP(C)/5269/2024

SOBAHAN ALI
S/O- KUDDUS ALI,
R/O- VILLAGE- DUBAPARA LUPTACHAR, BHATIPARA,
P.O- DUBAPARA, P.S- MORNOL, GOALPARA, ASSAM, PIN-783101

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, ASSAM, DISPUR,
GUWAHATI- 781006.

2:THE COMMISSIONER
TO THE GOVT. OF ASSAM
COMMISSIONERATE OF PANCHAYAT AND RURAL DEVELOPMENT
ASSAM PANJABARI GUWAHATI- 781037

3:THE DEPUTY COMMISSIONER
GOALPARA ASSAM

4:GOALPARA ZILLA PARISHAD
REP. BY ITS PRESIDENT KACHARI ROAD
NEAR OLD CIRCUIT HOUSE GOALPARA ASSAM

5:THE CHIEF EXECUTIVE OFFICER
GOALPARA ZILLA PARISHAD GOALPARA ASSAM

6:THE DEPUTY CHIEF EXECUTIVE OFFICER
GOALPARA ZILLA PARISHAD GOALPARA ASSAM

7:THE PRESIDENT
MATIA ANCHALIK PANCHAYAT
MATIA GOALPARA ASSAM-783125.

8:THE EXECUTIVE OFFICER
MATIA ANCHALIK PANCHAYAT
MATIA GOALPARA ASSAM-783125

Advocate for the Petitioner : MR S BORTHAKUR, MR. K MOHAMMED

Advocate for the Respondent : SC, P AND R.D., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 04.10.2024

Heard Mr. K. Mohammed, learned counsel for the petitioner, who submits that the petitioner had been given the settlement of Dakaidol Pasu Hat for one year, for the period from 01.07.2023 to 30.06.2024.

2. The petitioner's counsel submits that in view of the notification dated 29.06.2024 issued by the Principal Secretary to the Government of Assam, P&RD Department, the Governor of Assam was pleased to cancel all the ongoing process for settlement of the markets/fisheries etc., for the year 2024-2025, for which NITs had been floated.

3. The notification dated 29.06.2024 however directed that until the new tender was finalized, the existing lessees may be given extension of their markets/fisheries, at the settlement value fixed for the year 2023-2024.

4. The petitioner's counsel submits that pursuant to the notification dated 29.06.2024, the petitioner was allowed to operate the market for the months of July, August and September, 2024. However, he has not been given any permission to operate the market any longer in view of the letter dated

27.09.2024 issued by the Deputy Chief Executive Officer, Goalpara Zilla Parishad, which is to the effect that the petitioner had failed to deposit tolls at par with the actual valuation of the market.

5. The petitioner's counsel submits that the petitioner has submitted all the toll that had been collected and there was no wrong doing on the part of the petitioner in the deposit of the toll collected by him. In this respect, he has relied upon the Annexures to the writ petition at pages 65 to 72 of the writ petition.

6. The petitioner's counsel submits that the petitioner should be allowed to continue running the market on monthly basis in terms of the notification dated 29.06.2024, till regular settlement of the market is done.

7. Mr. K. Konwar, learned counsel for the respondent Nos. 1, 2, 4, 5 & 6 and Mr. K. Gogoi, learned counsel for the respondent No. 3 submit that the respondents can have a review of the letter dated 27.09.2024, to the extent of considering as to whether the petitioner had submitted the toll as per the actual valuation of the market by the concerned lessees. However, the decision to operate the market departmentally by the State respondents has been decided. Further, in view of the order dated 30.07.2024 passed in WP(C) 3613/2024, wherein the notification dated 29.06.2024 was stayed, insofar it related to operation of the markets by extending the settlement to the existing lessees, the prayer of the petitioner to be given permission to operate the market cannot be given.

8. On considering the pleadings and after hearing the submissions of the

counsels, it is noticed that the petitioner has not submitted any representation with regard to his grievance, prior to approaching this Court. The petitioner is accordingly given the liberty to submit a representation with regard to his grievance, regarding the allegation that the petitioner failed to deposit toll at par with the actual valuation of the market by the concerned lessees.

9. In the event the petitioner submits a representation with regard to his grievance, the respondents shall take a decision on the same, within a period of three weeks from the date of receipt of the representation and a copy of this order and communicate the decision taken to the petitioner. Insofar as the petitioner's prayer is to allow him to continue to operate the market from October, 2024, this Court is of the view that the same is barred by the order dated 30.07.2024 passed in WP(C) 3613/2024, wherein the direction given in the notification dated 29.06.2024 which states that "Until the new tenders are finalized, the existing lessees may be given extensions at the settlement value fixed for the year 2023-2024" is stayed. Further, no permission has been given by the respondents to the petitioner to operate the market for the month of October, 2024. As such, the non-giving of permission to the petitioner to operate the market beyond September, 2024 does not, in the view of this Court, violate any fundamental or legal right of the petitioner.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant