

GAHC010218642024



2024:GAU-AS:10854

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

Case No. : WP(C)/5669/2024

CHAIFUL ISLAM AND 6 ORS
S/O- LATE AHAMMAD ALI,
R/O- TENGAGURI, P.O.- TENGAGURI,
P.S.- LAHARIGHAT, DIST.- MORIGAON,
ASSAM.

2: JAHIRUL ISLAM
S/O- LATE ABDUL HANIF

R/O- HATILARUA PATHER
P.O.- TENGAGURI

P.S.- LAHARIGHAT
DIST.- MORIGAON

ASSAM.

3: ZAKIR HUSSAIN
S/O- IDRIS ALI

R/O- HATILARUA PATHER
P.O.- TENGAGURI

P.S.- LAHARIGHAT
DIST.- MORIGAON

ASSAM.

4: JAHIRUL ISLAM
S/O- LATE ABDUL KADIR

R/O- BAR HOLOWKANDA
P.O.- HOLOWKANDA

P.S.- BHURAGAON
DIST.- MORIGAON

ASSAM.

5: FAKARUL ISLAM
S/O- LATE HARES ALI

R/O- TENGAGURI
P.O.- TENGAGURI

P.S.- LAHARIGHAT
DIST.- MORIGAON

ASSAM.

6: ABDUL RAHIM
S/O- LATE ABDUL KADDUS

R/O- TENGAGURI
P.O.- TENGAGURI

P.S.- LAHARIGHAT
DIST.- MORIGAON

ASSAM.

7: ANIS ALI
S/O- LATE SHAMSHER ALI

R/O- HATI LARUA PATHER
P.O.- TENGAGURI

P.S.- LAHARIGHAT
DIST.- MORIGAON

ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO GOVT. OF
ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT,
PANJABARI, GUWAHATI-37.

2:THE DIRECTOR
PANCHAYAT AND RURAL DEVELOPMENT

ASSAM
PANJABARI
JURIPAR
GUWAHATI-37.

3:THE COMMISSIONER OF DISTRICT MORIGAON
ASSAM.

4:THE CHIEF EXECUTIVE OFFICER
MORIGAON ZILLA PARISHAD
MORIGAON
ASSAM

Advocate for the Petitioner : MD. S HUDA, MR. KHAIRUL ISLAM,MR. N HOQUE,MR. Md. ARIF

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

06.11.2024

Heard Mr. S. Huda, learned counsel for the petitioners; Mr. S. Dutta, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 2, 4, 5 & 6; and Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent no. 3.

2. The petitioners, 7 [seven] in nos., have approached this Court by this writ petition claiming that they have a common cause of action and a similar grievance.

3. In this writ petition, it has been projected that certain construction works have been selected under the 15th Finance Commission for implementation within the territorial jurisdiction of Tengaguri Gaon Panchayat under Laharighat Development Block, District – Morigaon for the year : 2022-23 and the construction works have been duly approved by the Executive Officer, Laharighat Development Block, Morigaon. In order to implement the

construction works under the 15th Finance Commission, a meeting of a Gaon Sabha was held on 14.11.2023 and in that meeting, a number of Construction Committees were formed to execute different construction works from funds approval/received under the 15th Finance Commission for the year : 2022-23. The petitioners were selected as President/Chairman of the Construction Committees formed in the meeting dated 14.11.2023 against different construction works. On 12.12.2023, the Block Development Officer [BDO], that is, the respondent no. 5 has issued an order for proper and timely implementation of the construction works emphasizing the role of the Construction Committees in executing those works. Thereafter, each of the petitioners has opened a joint account each in banks with the Member Secretary of the Construction Committees, who is the Panchayat Secretary. But after the dissolution of Tengaguri Gaon Panchayat, the matter of execution of the construction works under the grant of 15th Finance Commission has come to a halt. As the President/Chairman of the Construction Committees have the duty and responsibility to execute the construction works under the scheme, the petitioners submitted a representation before the District Commissioner, Morigaon [the respondent no. 3] on 05.09.2024 inter alia with a prayer to release the fund under the 15th Finance Commission and not to change the construction works approved under the 15th Finance Commission for Tengaguri Gaon Panchayat. The petitioners have preferred another representation on 04.10.2024 before the respondent no. 3 with the similar prayers. The petitioners have apprehended that due to dissolution of the Gaon Panchayat, the construction works under the 15th Finance Commission might not be implemented. With the aforesaid projections, the petitioners have preferred this writ petition seeking inter alia a direction to the respondent authorities to release the funds approved for construction works under the 15th Finance Commission for Tengaguri Gaon Panchayat.

4. Mr. Huda, learned counsel for the petitioners has submitted that since the representation dated 04.10.2024 submitted before the respondent no. 3 by the petitioners is yet to be disposed of, the writ petition may be disposed of with a direction to the respondent no. 3 to consider the same and thereafter, to dispose of the representation by way of a speaking order.

5. Both Mr. Dutta, learned Standing Counsel, P&RD Department and Mr. Goswami, learned Junior Government Advocate, Assam have submitted that since the representation, stated to have been submitted by the petitioners on 04.10.2024, appears to be pending, and if the same has not yet been disposed of, the writ petition can be disposed of, as sought for by the learned counsel for the petitioners, with a direction to the respondent no. 3 to take the said representation on board and thereafter, to dispose of the same by a speaking order.

6. Having regard to the submissions of the learned counsel for the parties and the projections made, as stated briefly hereinabove, this Court is of the considered view that if the representation, stated to have been filed by the petitioners before the respondent no. 3 on 04.10.2024, is pending as on date, the writ petition can be disposed of with a direction to the respondent no. 3 to take the said representation of the petitioners on board for consideration on merits and thereafter, to dispose of the same by way of a speaking order. It is accordingly ordered. In order to facilitate expeditious disposal of the representation, the petitioners shall submit another copy of the representation dated 04.10.2024 along with a certified copy of this order in the office of the respondent no. 3 within a period of 1 [one] week from today. It is further observed that such consideration is to be made as expeditiously as possible, preferably within a period of 4 [four] weeks from the date of receipt of the copy of the representation along with the certified copy of this order.

7. This order disposes of the writ petition.

JUDGE

Comparing Assistant