

GAHC010284632018



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

Case No. : WP(C)/77/2019

PIPLIBARI KOIHATI TENGABARI MOWAMORA JAAN UNNYAN SAMITEE
REP. BY ITS GENERAL SECY. SRI SHYAMANTA TALUKDAR, S/O- LT
GANESH TALUKDAR, AGE- 61 YRS, VILL AND P.O. PIPLIBARI, DIST-
NALBARI, PIN- 781338

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, LAND AND
REVENUE DEPTT., DISPUR, GHY-6

2:THE DY. COMMISSIONER
NALBARI

3:THE CIRCLE OFFICER
PASCHIM NALBARI REVENUE CIRCLE
CHAMATA
NALBARI

4:THE BDO
PASCHIM NALBARI
DIST- NALBAR

Advocate for the Petitioner : MR. B K DAS, MD S ALI

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 30.08.2024

Heard Mr. B.K. Das learned counsel for the petitioner and Ms. Sarma learned Jr. Govt. Advocate representing the respondent Deputy Commissioner.

The present writ petition is filed by the Piplibari-Koihati-Tengabari Mowamara Jaan Unnyan Samitee with a prayer to set-aside and quash the notice dated 29.08.2017 issued by the Addl. Deputy Commissioner, Nalbari, and also the order dated 27.03.2018 passed by the Deputy Commissioner, Nalbari and to allow the petitioner's committee to maintain the water body.

It is not discernible as to how the petitioner's Society is constituted and with what object. Admittedly, it is not a registered society.

From the enquiry report of the Circle Officer as well as from the affidavit, it seen that the water body is having importance in the local area. It is submitted by the learned counsel for the petitioner that there were some conflict as regards fishing rights over the water body and in the aforesaid backdrop the impugned orders were passed.

The order impugned dated 27.03.2018 shows that a meeting was held in the office chamber of Deputy Commissioner, Nalbari, wherein some of the members of the petitioner's association as well as gaon burahs of the village Piplibari, Koihati and Tengabari were present.

In the aforesaid meeting it was recorded that during field inspection unauthorized structures and Baans have been erected in the water body and the same is hampering natural flow of the water body

causing artificial logging of water in the adjacent cultivable land and in the neighbouring villages and in order to clear obstruction of any kind including leasing for fishing was barred under exercise of power under section 30(2)(5) of Disaster Management Act, 2005 asking the PWD, Rural Roads Department to remove all baans and obstruction within seven days of receiving such order.

In the given facts of the present case which clearly shows that the water body is having importance for prevention of flood etc in the area of Piplibari, Tengabari, Koihati area, this court find no infirmity in the impugned order of the Deputy Commissioner passed in exercise of power under Disaster Management Act, inasmuch as the petitioner has failed to show that any right of the petitioner has been violated.

Accordingly the writ petition stands dismissed.

It is further clarified that the Deputy Commissioner shall ensure the protection and prevention of the Water body and clear the obstructions.

JUDGE

Comparing Assistant