

GAHC010294202023



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

Case No. : WP(C)/28/2024

ABUL HUSSAIN BARBHUIYA
S/O SABIR UDDIN BARBHUIYA, VILL-ALITIKAR, MAHERPUR, P.O.-
MAHERPUR, P.S.-SILCHAR, DIST-CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, DEPARTMENT OF PUBLIC HEALTH ENGINEERING,
ASSAM, DISPUR, GUWAHATI-06

2:THE DEPUTY COMMISSIONER
CACHAR
ASSAM

3:THE SUPERINTENDING ENGINEER (PHE)
CACHAR CIRCLE
SILCHAR
ASSAM

4:THE EXECUTIVE ENGINEER
(PHE)
SILCHAR DIVISION NO. II
SILCHAR
ASSA

Advocate for the Petitioner : MR. K MIRA

Advocate for the Respondent : SC, P H E

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 08-01-2024

Heard Mr. K. Mira, learned counsel for the petitioner; Mr. I. Borthakur, learned counsel representing Mr. P.N. Goswami, learned Standing Counsel, Public Health Engineering [PHE] Department for the respondent nos. 1, 3 & 4; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent no. 2.

2. In this writ petition, the petitioner has averred that he is the owner of a plot of land, measuring 2 Kathas, covered by Dag no. 1200 & Patta no. 412, situate at Village – Alitkar, Meherpur, Ambicapur Part X, District – Cachar [‘the subject-plot’, for short]. He has asserted that he is in occupation of the subject-plot, where he has constructed one RCC G+1 building after obtaining permission from the Silchar Development Authority in the year 2018. The petitioner has further stated that he has been carrying on furniture business from shop, *M/s Muskan Furniture* located in the ground floor of the said RCC building and the petitioner resides with his family on the first floor of the said RCC building.

2.1. The petitioner has projected that the respondent Public Health Engineering [PHE] Department has installed a water supply project, that is, Meherpur Water Supply Scheme under the Jal Jeevan Mission in a plot adjacent to the subject-plot, belonging to the petitioner. The petitioner has alleged that the Meharpur Water Supply Scheme Plant has been installed in the said adjacent plot without proper drainage facilities. As a result, the sludge and contaminated water often use to escape from the adjacent plot into the subject-

plot belonging to the petitioner. As such, sludge and contaminated water enter into the subject-plot often, the petitioner has been facing difficulties in running his business from the ground floor of the RCC building apart, from the difficulties from staying on the first floor of the said RCC building.

3. Mr. Mira, learned counsel for the petitioner has submitted that a notice was served by the petitioner on the respondent no. 3 on 03.06.2022 highlighting the above grievances and on receipt of the said notice, the respondent no. 3 caused an enquiry through the respondent no. 4. The said enquiry was initiated by a letter dated 09.06.2022 whereby the respondent no. 4 was asked to submit a detail report regarding the complaint lodged in respect of the Meherpur Water Supply Scheme. Mr. Mira has further drawn attention to the report of the respondent no. 4, submitted before the respondent no. 3 on 14.06.2022, to submit that the respondent no. 3 in his said report has reported that during backwash, water of sludge drain constructed in connection with the Meherpur Water Supply Scheme overflows and drifts towards the public drain as the outlet of the drain constructed in connection with Meherpur Water Supply Scheme is not in proper slope and the same results in sufferings of the people in the area. Mr. Mira has further submitted that the representation submitted before the respondent no. 3 on 22.08.2022 has neither been given due consideration till date, nor the respondent no. 3 has undertaken any exercise in terms of the report dated 14.06.2022 to obviate the difficulties faced by the petitioner as the owner of the adjacent plot of land.

4. Mr. Borthakur, learned counsel appearing for the respondent PHE Department authorities have submitted that the report of the respondent no. 4

has suggested certain measures to redress the issues connected with the Meherpur Water Supply Scheme.

5. It is not in dispute that the subject-plot, belonging to a petitioner, is adjacent to the plot of land wherein the Meherpur Water Supply Scheme has been installed. Having gone through the documents annexed to the writ petition, more particularly, the report dated 14.06.2022 of the respondent no. 4, submitted before the respondent no. 3 on 14.06.2022, it has emerged that though the Meherpur Water Supply Scheme has been installed with its own sludge disposal system with sludge pond, sludge and water from drain constructed in the connection with the Meherpur Water Supply Scheme overflows and drifts towards the public drain during backwash as the outlet of a sludge drain is not in proper slope and as a result, the people in the area have to suffer due to such overflow of sludges. The report has further suggested that the works for retrofittings of Meherpur Water Supply Scheme is being undertaken under the Jal Jeevan Mission and a separate drain has been included in the retrofitting works. It has been indicated in the said report that once the retrofitting and construction of separate drain are completed, the problems suffered by the people in the adjoining area including the petitioner, would be mitigated.

6. As it is submitted on behalf of the petitioner that the retrofitting works and construction of separate drain for the redressal of the grievances and mitigations of sufferings of the people in the area in connection with Meherpur Water Supply Scheme have not been resolved till date and the representation of the petitioner submitted on 22.08.2022, has not been given due consideration

till date, this writ petition, as agreed to by the learned counsel for the parties, is disposed of with a direction to the respondent no. 3 to examine and consider the grievances expressed by the petitioner in his representation dated 22.08.2022 and to take action in terms of the report dated 14.06.2022, submitted by the respondent no. 4 so as to redress the grievances and mitigate the suffering of the petitioner. It is observed that such exercise should be completed within a period of 45 days from the date of submission of a certified copy of this order by the petitioner at the office of the respondent no. 3. It is further observed that any decision so taken, shall be communicated to the petitioner forthwith thereafter.

JUDGE

Comparing Assistant