GAHC010239242019

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

Case No. : PIL 61/2019

1:ANISUR RAHMAN
S/O- LATE ANOWAR HUSSAIN, R/O- VILL- TUMNI, P.O- TUMNI, P.S- SOUTH SALMARA MANKACHAR, ASSAM, PIN- 783127

VERSUS

1:THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM, DISPUR, GUWAHATI- 6

2:THE SECRETARY
MIN OF MINORITY AFFAIRS
DEEN DAYAL ANTODAYA BHAVAN
CGO
LODI ROAD
NEW DELHI- 110003

3:THE SECRETARY
WELFARE OF MINORITIES AND DEVELOPMENT DEPTT
ASSAM
DISPUR
GUWAHATI- 06

4:THE CHIEF ENGINEER
PWD BUILDING
ASSAM
CHANDMARI
GUWAHATI- 03

5:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR DIST

P.O- HAT SINGIMARI
P.S- SOUTH SALMARA
DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

6:THE DEPUTY COMMISSIONER
DHUBRI DIST
P.O DHUBRI
ASSAM
PIN- 783301

7:THE MANAGING DIRECTOR
SHREE GAUTOM CONSTRUCTION CO. LTD
4TH FLOOR
PALTAN BAZAR
BAET NO. 14
GUWAHATI
ASSAM
GUWAHATI- 78100

Counsel for the Petitioner(s) : Mr. A. R. Bhuyan, Advocate
Mr. M. A. I. Hussain, Advocate

Counsel for the Respondent(s) : Mr. T. C. Chutia, Addl. Sr. Govt. Advocate.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. AJAI LAMBA
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

06.03.2020:
(Ajai Lamba, CJ)

1. Anisur Rahman has filed this petition in purported public interest with the plea that in the year 2017-20218, Government of India, Ministry of Minority Affairs, decided to establish Model Residential Schools in the State of Assam, particularly in towns where there is minority concentration and are located in educationally backward districts. Accordingly, district wise locations were identified and Fekamari under South Salmara Mankachar District was identified as one of the locations.

It has been pleaded that the terms and conditions for utilization of sanctioned amount

were appended as Annexure-II with letter dated 30.11.2017 forwarded by the Secretary, Ministry of Minority Affairs, Government of India for grant-in-aid under Centrally Sponsored Scheme of Multi-sectoral Development Programme. Clause viii of Annexure-II appended with letter dated 30.11.2017 (supra) specifies that grantee shall ensure that priority be given to villages/locations with substantial percentage of minority population. Fekamari stood at Sl. No.20.

2. It has been pleaded that thereafter on 04.02.2019, Chief Engineer, PWD (Building), Assam, Chandmari, Guwahati floated detailed notice inviting bids from registered PWD Contractor/Firm/Private Limited Company under Class-I(A) for construction of Model Residential Schools. Fekamari under South Salmara Mankachar did not find mention therein. Bids for 14 Model Residential Schools at 14 different locations were invited.

3. In a nutshell, the petitioner claims that Model Residential School for minorities section should be established at Fekamri, and the location be not changed.

4. We have considered the contention of learned counsel.

5. It is not the pleaded case on behalf of the petitioner that where such Model Residential Schools are proposed to be set up, there are no persons belonging to minority community.

So far as selection of place for setting up such facilities concerned, it would be a matter of policy. The decision is required to be taken by the Government, on the basis of relevant inputs. Economic viability, existing infrastructure, expenses to be incurred, road connectivity etc. might be some of the factors in regard to which this Court is ill-equipped to formulate an opinion and direct the respondents to stick to the earlier locations where Model Residential Schools were proposed to be set up.

6. For the purpose of determining the cause for change of place for setting up of the facilities, we have also referred to affidavit sworn by Syeda Hasina Murshid Rahman, Secretary, Welfare of Minorities and Development Department, Assam on 22.11.2019. It has been pointed out that locations for construction of Model Residential Schools has not been changed only for Fekamari, under erstwhile Dhubri district, but also for other 5 Model Residential Schools in different districts as per direction of higher authorities. The change thus effected is after the approval of State Level Committee constituted for Prime Minister’s New 15 Point Programme. It is not only on approval of State Level Committee, the modification was submitted to the Ministry of Minority Affairs, Government of India.

Even the Deputy Commissioner concerned has submitted justification in this regard.

7. On the second count, we are of the view that this does not appear to be a litigation in public interest. No such material has been placed on record that the minority community would suffer. It is not in dispute that such facilities are being set up.

8. Considering cumulatively the facts and circumstances of the case, we find no reasons to show indulgence.

9. From the contents of the affidavit filed on behalf of respondents also our view is fortified that the relevant exercise for selecting the places is required to be done at the level of the respondents, which in fact, has been done. Not only Fekamari but 5 other locations have been changed, however this petition has been filed only in relation to Fekamari. Therefore, there appears to be some personal interest in the matter raised on behalf of the petitioner.

10. Dismissed.

JUDGE **CHIEF JUSTICE**

Comparing Assistant