

(1997) 07 GAU CK 0007
In the Gauhati High Court
Case No : Civil Rule No. 649 of 1997

Anil Das

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 28-07-1997

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1998) 1 GLT 209

Hon'ble Judges : J.N. Sharma, J

Bench : Single Bench

Advocate : B.K. Sharma and M.K. Choudhury, for the Appellant; B.P. Borah, Government Advocate, P.C. Deka and S.K. Medhi, for the Respondent

Judgement

J.N. Sarma, J.—This writ application has been filed challenging the notification dated 3.2.97 issued by the Commissioner & Secretary to the Govt. of Assam, WPT & BC Department, reconstituting the Sub-Divisional Scheduled Caste Development Board for the Gauhati Sub-Division. Earlier on 16.1.97 by Annexure-I to the writ application a Board was constituted with the Petitioner as one of the members. That body took charge and was functioning. Thereafter, on 3.2.97 that was superseded read with the Corrigendum dated 13.2.97.

2. I have heard Mr. M.K. Choudhury, learned Counsel for the Petitioner and Mr. K.H. Choudhury, learned Addl. Sr. Govt. Advocate appearing on behalf of Respondents 1 and 2 and also Mr. P.C. Deka, learned Counsel for Respondent No. 3.

The main thrust of argument of Mr. Choudhury, learned Counsel for Petitioner is that the impugned notification is arbitrary, unreasonable and capricious and a validly constituted body has been sought to be cancelled without recording any reason for such cancellation.

3. In the affidavit-in-opposition filed on behalf of Respondents 1 and 2 in para it has been stated that no reasons are necessary to assign for reconstitution of a

body comprising the nominated members. After all, the Govt. action must bear the stamp of fairness and transparency. If the contention of the Govt. is accepted that will give a long handle to the Govt. and will wipe out the need of transparency in the field of Govt. action. All Govt's. actions must be based on some reason/valid reasons which will stand the scrutiny of a reasonable person. Govt's. action must be in a proper manner and it cannot act according to its own whims and caprice and cannot cancel a body constituted earlier without assigning any reason or without having any valid reason. This matter is further covered by a recent decision of this Court reported in (1996) 1 GLR 1 : 1995 (3) GLT 265 (Jogen Ch. Borah v. State of Assam). There also the same type of Board was reconstituted by the Govt. within a short period of time without affording any reason and this Court relying on the decision of the Apex Court pointed out as follows:

The aforesaid decision is an authority for the point that the executive in the exercise of its power cannot avoid scrutiny by the Courts by failing to give reasons. Since no reasons have been given by the executive in the present case for cancelling the notification dated 28.7.94 reconstituting the Board with the Petitioner as Chairman, I have no option but to come to the conclusion that the said cancellation by the impugned WT message dated 4.8.94 within a few days after the notification dated 28.7.94 was not for any relevant consideration and was arbitrary and violative of Article 14 of the Constitution.

4. This being the position of law, this writ application, is allowed and the impugned notification dated 3.2.97 and 13.2.97 shall stand quashed.