

(2019) 11 GAU CK 0027

In the Gauhati High Court

Case No : Public Interest Litigation No. 35 Of 2019

Anirban Roy

APPELLANT

Vs

Assam Agricultural University And 3 Ors

RESPONDENT

Date of Decision : 11-11-2019

Acts Referred:

Citation : (2019) 11 GAU CK 0027

Hon'ble Judges : Ajai Lamba, CJ; Achintya Malla Bujor Barua, J

Bench : Division Bench

Advocate : Debabrat Saikia, D. Saikia, P.N. Goswami, J. Kalita, K.P. Pathak

Final Decision : Disposed Off

Judgement

Ajai Lamba, CJ

1. This petition in public interest has been preferred by Shri Anirban Roy.

2. Pleadings in the petition indicate that petitioner is a professional journalist and is a resident of Guwahati. Pleadings further indicate that the petitioner studied 5-year course in Bachelor of Veterinary Science & Animal Husbandry in the College of Veterinary Science under the Assam Agricultural University between 1989 and 1994 at Khanapara in Guwahati. As a student, the petitioner was proud of the finest playgrounds provided by the University for the benefit of the students. The petitioner regularly played cricket. It has been highlighted that a number of good cricket players have been produced, including those who played Ranji Trophy. This was possible only because appropriate facilities were provided by providing the Cricket field, which was well maintained.

It has been pleaded that earlier the play grounds were meticulously maintained and only because of such maintenance, the sports persons could excel.

3. It has been pleaded that the petitioner sought information under the Right to Information Act being aggrieved by the ill maintenance of the

playgrounds meant for football, cricket, lawn tennis, basket ball, volley ball, equestrian sports, etc. The petitioner, however, has not received any

response under the Right to Information Act.

4. It has been highlighted that the Assam Agricultural University is the first University in the North East part of the country, established in the year

1969. The University has been set up with the sole aim of producing agricultural professionals and to undertake research in agriculture.

5. In para-11, it has been detailed that the Assam Agricultural University is having a Multipurpose Sports Complex set-up in Khanapara in 1977 over a

plot of 54 bighas, which formerly was jail land, however, was handed over to Assam Agricultural University by the Government of Assam with the

purpose of promoting sports activities mentioned hereinabove. Total area of the sports complex as of now is 46.60 bighas. A standard twin-cricket

pitch was also constructed in the sports complex and was inaugurated in March, 2011.

6. It has been highlighted that in the last 10 years, the play grounds have been transformed into a venue for political rallies, musical programmes,

exhibitions, religious congregations and even marriage receptions. It has been stated that there were trees in the North-Western side of the sports

complex which were cut for organizing political rallies which resulted in complete destruction of the sporting environment and has seriously interfered

with the sports activities. So much so, the cricket ground is in such a bad condition that tournament cannot even be organized in the said complex.

Approximately 91,130 numbers of concrete blocks were laid at several places on the western part of the sports complex to construct helipads and a

passage. The tennis court is no more in condition where tennis can be played. Likewise, basketball court is also in bad condition. Whenever political

rallies are to take place, security forces virtually take control of the playground and even entry of students is blocked.

7. Considering the pleadings, notice was issued. Affidavit-in-opposition has been filed on behalf of Respondent No.2 (Dean, Faculty of Veterinary

Science, Assam Agricultural University, Khanapara, Guwahati).

8. Learned counsel for the respondent Shri D. Saikia has highlighted from para-4

of the affidavit that no political meetings are allowed to be held on the ground meant for sports, be it cricket or football. There is some land beyond the sports complex, which is utilized for such purposes. An attempt has been made to project that the ground meant for sports activities is being maintained for the said activities; and political rallies and other such activities are not held on the same.

9. We would like to make a specific reference to paragraphs-4 to 8 of the affidavit-in-opposition sworn on 30th August, 2019 by the Dean, Faculty of

Veterinary Science, Assam Agricultural University :

â??4. That the aforesaid Public Interest Litigation has been filed by the petitioner seeking a direction to the respondents to take adequate

and effective measures for upkeep, maintenance and restoration of Multipurpose Sports Complex (MPSC) of the College of Veterinary

Science in Khanapara, Assam Agricultural University as well as for a ban on all non-sporting activities within the said Complex. In this

regard, the deponent would like to categorically state that the said complex is only used for sporting activities such as cricket, football,

equestrian activities etc. as well as extra-curricular activities, which are directly connected to the study and research activities undertaken

at the University such as Agri-Horti show, Agribusiness summit etc. Be it pertinent to mention that even such extra-curricular activities are

conducted in such a manner that there are no adverse effects upon the sporting activities on the said field or on the condition of the sports

grounds.

5. That the petitioner has contended that the said field is being leased out for cultural nights, wedding reception, political meetings and

rallies etc. This contention is patently false and baseless. When the field is not in use for the sporting activities and extra-curricular activities

of the University, other educational institutions are allowed to conduct sports activities on the field, including NCC events etc. in the area of

the field, other than the cricket and the football ground. In this regard, the deponent begs to state that a fee-schedule has been fixed for

allowing such activities of other institutions on the field vide notification dated 26.05.2015 of the Joint Registrar, Assam Agricultural

University. The money received thus is completely utilized for the upkeep and

maintenance of the grounds and the MPSC.

A copy of the notification dated 26.05.2015 is annexed herewith and marked as ANNEXURE-A.

6. That the deponent further begs to state that the ground is frequently used for conducting public events of the Government of Assam such as Republic Day, Independence Day etc. but these events are not allowed to adversely affect the condition of the cricket and football grounds.

Copies of the various orders for conducting Republic Day and Independence Day functions are annexed herewith and marked as

ANNEXURE-B.

7. That regular up-keep and up-gradation of the grounds and the MPSC is being done by the University. In this regard, the deponent begs to

state that there is a particular Directorate in the University to oversee the sporting and extra-curricular activities. Regular up gradation of

the said complex is being done from time to time. Be it stated herein on 22.09.2017 proposal were even forwarded to the Director of

Agriculture, Govt of Assam seeking funds of Rs. 1 Crore for the development of the said MPSC. Pursuant to the said proposal from the

University, on 31.10.2017 the Director of Agriculture, Government of Assam sought for sanction of the said amount from the Commissioner

& Secretary to the Government of Assam, Department of Agriculture.

Copies of the letter dated 22.09.2017 and 31.10.2017 are annexed herewith and marked as ANNEXURES-C & D respectively.

8. That the deponent begs to state the sports grounds and the MPSC are a vital part of the infrastructure of the University and it has helped

in fostering a sporting culture in the University. The cricket and football grounds as well as the MPSC are regularly maintained by the

University. Though, it is true that the twin cricket pitches have been affected badly due to the widening of the NH-37 highway, repair work

for the same has been already initiated by the University. For the development of the said MPSC, earth filling works is being done from time

to time by the AAU authorities. In fact, presently the fields and the MPSC are in a far better condition than in previous years.â??

10. We have considered the issue raised before us. Indeed, if the University has

provided exclusive grounds for sporting activities, the same are required to be maintained for the said activities. This is not an issue that can be debated.

We are further of the considered view that sports would form an integral part of the studies being imparted in the University. Every institution rather

State and the country is proud of the players it produces. For producing players, who can play at national level, appropriate play grounds are required to be provided, without which it would be inconceivable to have sportsmen of merit.

11. We have referred to Annexure-B, letter dated 16th January, 2017, filed with the affidavit-in-opposition. The document suggests that permission

has been given for use of the "playground" for State Level Republic Day function. Likewise, document on record at Page 7 of the affidavit-in-

opposition dated 12th July, 2018, suggests that State Level Ceremonial Celebration for celebrating Independence Day 2018 was held on the

"playground" of the University. Page-8 of the affidavit-in-opposition also suggests that western part of the multipurpose sports complex was kept

reserved for State Level Republic Day function.

12. Considering various documents, it becomes evident that the pleadings in para-4 of the affidavit-in-opposition, as extracted above, stand

contradicted by the documents referred to above. It has become evident that the fields meant for sports activities are being used for purposes other

than sports. Such non-sporting activity would obviously result in damage to the field. A field prepared/constructed for playing Cricket or Football is

used, for other purposes by large number of persons, logically the field would be rendered useless for playing the sport.

13. Considering various aspects of the case, learned counsel for the respondents has fairly stated that the sports complex is required to be maintained

as such. However, because Guwahati does not have open grounds/spaces, certain activities are required to be carried in rare circumstances, and for

rare occasions.

Learned counsel for the respondents further admits that for the purpose of maintaining fields meant for sports as sports complex, necessary

instructions are required to be issued. So far as possible, the grounds meant for cricket; football; volleyball; basketball, tennis court, etc. are required to

be maintained at international standard for the given purpose. No laxity in that regard can be tolerated.

However, considering the dearth of land/open spaces in Guwahati, it has been suggested by the learned counsel for the respondents that necessary

executive instructions would be issued so as to balance the two. An assurance has been given to the Court that the grounds meant for sports activities,

detailed above, would be appropriately maintained for the said purpose. In case they are required to be used for other purposes, appropriate executive

instructions would be issued so that the grounds may be used for other purpose with restrictions. An assurance has been given that the sports fields

would be restored to the original use at the expense of the user within 7 days of the use; and in any case not later than 7 days of the use. For the said

purpose, it would be appropriate that a substantial security deposit is made with the Dean of the University before allotment of the land for a particular

purpose. In case the ground is damaged, the Dean can use the money in deposit as security for restoration of the ground for sports activities.

14. Considering the totality of the facts and circumstances of the case, we hereby direct that marriage and other social functions/family functions shall

not be performed in any of the areas provided for sports activities. We further direct that the Helipad be constructed beyond the areas specified for

sports activities. Only functions of national interest may be held on the sports grounds and that too rarely and only in public interest, however, on the

conditions detailed herein below.

i) An application would be filed by the person/authority who wants to use such grounds while clearly specifying the purpose of use. The Dean of the

University would be at liberty to demand security, which should be sufficient to restore the ground for the concerned sport. In case the proposed use is

such that it is likely to damage the sports field/ground to an extent that it cannot be conveniently restored, the Dean would have absolute authority and

discretion to reject the application.

ii) In case after use of the field/ground, the grounds are not restored by the user to its original state, the Dean would have the discretion to utilize the

security amount for restoration of the grounds for the purpose it is meant.

We direct that in case any of the fields meant for any of the sports mentioned above has been damaged, the same be restored to international

standards, as early as possible, and in no case beyond a period of three months from today. Considering the delicacy involved in maintaining the

cricket field/ground, the field meant for cricket be demarcated and barricaded so that the said field/ground is not used for any other purposes.

15. With the above observation/direction and on the assurance of learned counsel for the respondent as noticed above, the petition is disposed of.