

(2008) 06 GAU CK 0022
In the Gauhati High Court
Case No : PIL No. 86 of 2006

Guru Charan Das

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 13-06-2008

Acts Referred:

Citation : (2009) 1 GLR 816

Hon'ble Judges : Jasti Chelameswar, C.J.;Hrishikesh Roy, J

Bench : Division Bench

Advocate : K.P Sarma and H. Das, for the Appellant; K.N. Choudhury, B. Goyal and B.C. Das, for the Respondent

Final Decision : Dismissed

Judgement

Jasti Chelameswar, C.J.—Heard Mr. K.P. Sarma, learned senior Counsel appearing for the Petitioner. Also heard Mr. K.N. Choudhury learned Addl. Advocate General representing the State Respondents.

2. Claiming to be a public spirited citizen, the present petition has been filed by a practising advocate of Goalpara district bar to challenge various orders starting from the order dated 1.7.1984 issued by the Deputy Commissioner, Goalpara to the order dated 26.4.1999. There may not be any need to record the details of the impugned order but to state that by the said impugned orders, out of 514 Bighas, 2 Kathas and 18 Lechas land earmarked for inclusion in the master plan area of Goalpara Town, different parcels of land have been allotted to various Government departments. It may be mentioned that by the impugned order, land has also been allotted for construction of a new court building whereas the Petitioner who is a practising advocate of Goalpara District wanted that the court should not be shifted from its present location to the newly allotted site.

3. Although Petitioner claims that he is bona fide challenging the impugned allotment orders to protect forest land by filing the present PIL in the year 2006 it clearly appears that prior to 2006, the Petitioner has done nothing whatsoever

for protection of forest or the environment in Dhubri township. If the concern of the Petitioner was genuine, nothing should have prevented the Petitioner to protest against the land allotment order made nearly 22 years ago on 1.7.1984 with reasonable promptitude on the ground of protection of forest, rather than waiting for all these years.

It is, therefore, clearly discernible that only because there was a move to shift the court building from the present location to a new location on the newly allotted land, the Petitioner has chosen to file the present PIL, expressing as it appears to us a motivated concern about protection of forest land and its consequent adverse impacts.

4. If the concern of the Petitioner for protection of environment were genuine and bona fide, he could have challenged the land allotment orders much earlier and not at a stage when allotment of lands have been given for relocation of the court building away from Goalpara town to a more spacious location. The Petitioner is obviously not happy with the decision to relocate the court building but instead of challenging the relocation move, the Petitioner has filed the present PIL by projecting his case to be an effort at conservation of ecology and environment.

In our view this is obviously a camouflage to hide the true motive for filing the present petition. By clubbing together a challenge to several land allotment orders made by the Deputy Commissioner, Goalpara from 1.7.1984 to 26.4.1999, the Petitioner wants to project his concern for the protection of the environment. But that does not appear to us to be a bona fide concern of the Petitioner, as he has filed a PIL after over 2 decades of the first allotment order made in the year 1984.

5. The Petitioner has cited the Supreme Court decision reported in *Bombay Dyeing and Mfg. Co. Ltd. Vs. Bombay Environmental Action Group and Others*, to contend that although the Petitioner has approached this Court at a belated stage, since he wishes to challenge the land allotment orders, which were passed in contravention of law, the court ought not to reject the petition on the ground of laches. In the above case, the Supreme Court has held that delay and laches on the part of the writ Petitioners indisputably have a role to play in the matter of grant of reliefs in a writ petition. This case in our view allows the writ court to take note of stale claims and pass appropriate orders.

6. Mr. B.C. Das, learned senior Counsel appearing for Respondent Nos. 12 and 13 submits that more than 90 per cent of the construction work of the new court building in the new location has already been completed and only because of the present litigation and the interim order passed by this Court, the commissioning of the new court building is delayed.

We find that the interim order passed by the court has already been vacated on 20.3.2008 and by the time the Petitioner has filed the present PIL, major works of the court building spending public fund in the new location has been

completed. The Petitioner did not care to show any concern for protection of the environment when land allotment orders were made as far back as in the year 1984 and, therefore, we are constrained to take a view that the present petition has not been filed to espouse bona fide cause by the Petitioner.

7. The Supreme Court has categorically laid down that where by reason of delay and/or laches on the part of the writ Petitioners the parties have altered their positions and/or third-party interests have been created, public interest litigations may be summarily dismissed.

8. Under the above circumstances, we are not inclined to consider the petition on merit. We find that the Petitioner is not only guilty of laches but his concern for environmental protection also does not appear to be sincere and bona fide.

9. Accordingly, this PIL is not accepted and the same is accordingly dismissed by imposing a cost of Rs. 5,000 against the Petitioner.