

(2008) 01 GAU CK 0035
In the Gauhati High Court

Jaharul Islam Borbhuiya

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 21-01-2008

Acts Referred:

Citation : (2008) 2 GLT 773

Hon'ble Judges : Amitava Roy, J

Bench : Single Bench

Judgement

Amitava Roy, J.—Heard Mr. M.K. Boro, learned Counsel for the petitioner and Mr. H. Rahman, learned State Counsel for the official respondents. The learned Counsel for the petitioner submits that the names of the respondent Nos. 3, 4 and 5 be struck off from the array of respondents. Ordered accordingly.

2. The un-rebutted pleaded case of the petitioner is that, his father along with his relatives owned a plot of land measuring seven bighas abutting Hailakandi-Badarpur PWD road under Algapur Police Station in the district of Hailakandi, Assam. They earned their livelihood by raising cultivation thereon. In the year 1990, the local MLA of Algapur Constituency having mooted a proposal to provide appointments to their sons/daughters and near relatives in lieu of the land to be donated for construction of the Block Development Office in the locality, the petitioner's father along with other five co-sharers responded thereto positively and donated the aforesaid land covered by RS Patta Nos. 328 and 329, Dag Nos. 1055 and 1063 of Mouza Barnagad in the district of Karimganj. A deed to the said effect was also executed by them on 19.05.1990.

The respondent authorities thereafter raised the building of the Block Development office at Algapur during 1999-2000. The petitioners' grievance is that though thereafter by order dated 21.03.2001 eight persons were provided with appointments being sons/daughters/near relatives of the land donors, he was left out without any acceptable reason. The representations submitted by him and his father to the appropriate authorities also remained unresponded. However, in the report submitted by the Deputy Commissioner, Hailakandi on the

issue it was categorically mentioned that the petitioner's father Sayub Ali Barbhuiya (since deceased) was one of the donors of the land for establishment of Algapur Block Development Office.

3. No affidavit in opposition has been filed by the respondents.

4. The learned Counsel for the petitioner has submitted that apart from the fact that he (petitioner) is wrongfully denied the appointment as promised, by the office order dated 21.03.1991, persons at serial Nos. 4 and 8 though not eligible have been accommodated. He therefore has pleaded that this is a fit case where a writ of mandamus ought to be issued to the respondents to provide appointment to the petitioner in terms of the understanding on which the land was donated for the establishment of the Block Development Office at Algapur.

5. Mr. Rahman, in reply has contended that in view of the lapse of time in between, the impugned order ought not to be interfered with. However, in the interest of justice, this petition be closed with a direction to the respondents to consider the case of the petitioner for an appropriate decision.

6. Upon hearing the learned Counsel for the parties and on a consideration of the averments on oath as well as the documents appended to the petition, this case stands disposed with a direction to the Commissioner and Secretary to the Govt. of Assam, Panchayat and Rural Development Department, Assam, Dispur and the Director of Panchayat and Rural Development, Assam, Guwahati to cause immediate steps to be taken to examine the petitioner's case for appointment in terms of the decision taken for appointment of sons/daughters/near relatives of the land donors as above and if on verification, the petitioner is found to be eligible for such appointment, the aforementioned authorities would do the needful to redress his grievance. It is made clear that, this Court has not interfered with the order dated 21.03.2001 and it would be up to the respondents to take necessary steps to accommodate the petitioner suitably if he is found entitled to be appointed in the facts and circumstances of the case. As the petitioner waits in expectation for appointment, the exercise as above should be completed within a period of two (2) months from the date of receipt of the certified copy of this order. No costs.