

(2019) 11 GAU CK 0017
In the Gauhati High Court

Case No : Public Interest Litigation No. 2 Of 2019

Kishore Kumar Bhattacharjee And 9 Ors

APPELLANT

Vs

State Of Assam And 8 Ors

RESPONDENT

Date of Decision : 06-11-2019

Acts Referred:

Citation : (2019) 11 GAU CK 0017

Hon'ble Judges : Achintya Malla Bujor Barua, J; Nelson Sailo, J

Bench : Division Bench

Advocate : S Dutta

Final Decision : Disposed Off

Judgement

AM Bujor Barua, J

1. Heard Mr. S. Dutta, learned counsel for the petitioners and Mr. T.C Chutia, learned Additional Senior Government Advocate appearing for the respondent authorities.

2. The ten petitioners before the Court have preferred this public interest litigation with the following prayers:-

(a) To direct the respondents to set aside and/or ignore the impugned site visit report dated 15.02.2018 (Annexure-10) submitted by the Committee;

(b) To constitute a fresh Committee for construction of RCC Bridge over river Barak at Silchar Madhura Ghat as per resolution of the minutes of the meeting held on 24.11.2017;

(c) To issue any other appropriate order or direction which the Honâ??ble Court deems fit and proper in the facts and circumstances of the case.

AND

During the pendency the Honâ??ble Court be further pleased to stay the operation of the impugned site visit report dated 15.02.2018 (Annexure-10).

3. The matter pertains to construction of a RCC bridge over the river Barak within the Silchar Town. According to the petitioners, there was an

earlier decision of the respondent authorities to construct the bridge at a site called Madhura Ghat. According to the petitioners, if the bridge is located

at the site Madhura Ghat, it will set in motion lasting and far reaching economic and social transformation of the entire area and the bridge will

instantaneously change the face and profile of the area. Further, the bridge at Madhura Ghat will also benefit three legislative constituencies, namely

Borkhola, Silchar and Udharbond and a population of about one lakh will immediately come into the economic mainstream.

4. Although a decision was taken earlier to construct the bridge at Madhura Ghat, but there is a subsequent decision as per the site visit report dated

15.02.2018 annexed as Annexure-10 to the petition that the proposed bridge be now constructed at any place on the straight reach between 200

meters downstream of Ghoniaila ghat to approximately 200 meters upstream of Annapurna Ghat. This location in common parlance is called the site at

Dudpatil (Annapurna Ghat).

5. The petitioners are of the view that the original decision to construct the bridge at the side Madhura Ghat would have been more appropriate and

more beneficial to the people of the locality rather than constructing the bridge at the later site at Dudpatil (Annapurna Ghat). The reason given in the

petition for such view being expressed by the petitioners is that a construction of the bridge at the side Dudpatil would create large scale eviction and

payment of compensation to more number of peoples. Further, the technical committee, who was dealing with the matter had not discussed with the

local citizens including the petitioners as directed by the Deputy Commissioner, Cachar on 24.11.2017 to understand the long pending demand of the

people of the area. A further reason stated is that the proposed bridge at the side Dudpatil (Annapurna Ghat) would create problem to around one lakh

population, who are not dependant on the Madhura Ghat Ferry Service. Further, a report dated 15.02.2018 is also referred which is about river side

erosion on either side of the river at the site Dudpatil.

6. Without considering the response of the respondent authorities, we are of the

view that firstly a decision as to where a particular bridge over a river within a town is to be located would be more of an act within the administrative discretion of the authorities rather than it being the question of a legal issue to be decided in a Court of law. The Court of law does not have the expertise nor the technical knowledge to arrive at an adjudication as to what would be a more appropriate location of a proposed bridge. But at the same time, we also cannot be oblivious to the aspect that even an administration decision would be required to be taken by the authorities in a non-arbitrary and reasonable manner. The materials on record are not sufficient enough to arrive at any conclusion as to whether there was any arbitrariness or unreasonableness in the decision of the authorities to now construct the bridge at the site Dudpatil (Annapurna Ghat) instead of the earlier site at Madhura Ghat.

7. In the circumstance, we are of the view that instead of keeping the petition pending any further, where also a situation may be arise that the Court would still be unable to arrive at an appropriate adjudication on the dispute being raised, we are of the view that a better course of action would be to require the petitioners to file an appropriate and detailed application before the Commissioner and Secretary to the Government of Assam in the PWD as well as to the Chief Engineer, PWD (Roads) stating in clear terms as to what technical reasons would favour the bridge being constructed at the earlier site at Madhura Ghat and not in the later site at Dudpatil (Annapurna Ghat).

8. Upon such application being filed, the Chief Engineer, PWD(Roads) shall forward his view on the matter to the Commissioner and Secretary to the Government of Assam in the PWD and the Commissioner and Secretary in turn after giving a hearing to the petitioners, shall pass a detailed reasoned order thereon.

9. The Commissioner and Secretary shall pass the reasoned order as indicated above strictly within a period of 30(thirty) days from the date on which the application would be made by the petitioners.

In terms of the above, the public interest litigation stands disposed of.