
(2022) 05 GAU CK 0046

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 1173 Of 2019

Machkhowa Vegetable Retailers Development Association

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 27-05-2022

Acts Referred:

Citation : (2022) 05 GAU CK 0046

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : M BISWAS

Judgement

1. Heard Mr. B. Kaushik, learned counsel for the petitioner; Mr. M. Chetia, learned Junior Government Advocate, Assam for the respondent nos. 1, 2 & 5; Mr. S. Bora, learned Standing Counsel, GDD & GMC for the respondent nos. 3, 6 & 7; and Mr. P.S. Deka, learned Standing Counsel, Revenue Department for the respondent no. 8.

2. This Court on 07.03.2022 had passed the following order :

"From the submissions of the learned counsel for the parties, it transpires that the genesis of this writ petition is an order dated 11.05.2018 passed by the Chief Secretary, Government of Assam. The relevant excerpts of the said order are quoted herein below :

"Whereas in the aforesaid meeting, the Principal Secretary, GDD stated that the vacant plot across the road from the existing ASAMB Wholesale Vegetable Market at Pamohi shall be ideal place for vegetable retailers. The plot can be further developed in future by GMC and amenities can be improved. Even after leaving out the land for future widening, there will be sufficient land having approximately 11000 Sq. Ft area which will be sufficient to accommodate 240 retailers. As on today ample space is available in the said plot.

Here, after careful consideration of all relevant land records supplied by office of

Deputy Commissioner and the Circle Officer, pertaining to the instant case, it is ordered that all the 240 [Two hundred forty] members of Machkhowa Vegetable Retailers Development Association will be accommodated in the said plot bearing Dag No. 508 of Village - Pamohi, Mouza - Ramcharani of Azara Revenue Circle to be handed over to Guwahati Municipal Corporation as per report received from Deputy Commissioner, Kamrup [Metro] on 11.05.2018. Guwahati Development Department will carry on the necessary communication with Revenue & D.M. Department for completion of the procedure for correction of land records by the Deputy Commissioner, Kamrup [Metro]. Guwahati Development Department shall also provide minimum required funds, if necessary, for the development of the plot with shaded market area etc."

Mr. Kaushik, learned counsel for the petitioner has submitted that no discernible action has been taken by any of the respondent authorities to carry out the above direction till date pursuant to the said order dated 11.05.2018.

Mr. Bora, learned Standing Counsel, GDD & GMC has submitted that the plot of land covered by Dag No. 508 located in Village - Pamohi, Mouza - Ramcharani of Azara Revenue Circle ['the subject-plot', for convenience] has not yet been handed over to the GMC authorities.

Mr. Deuri, learned counsel appearing for the respondent no. 5 has prayed for 2 [two] weeks' time to obtain instructions as to what action has been taken by the office of the respondent no. 5 till date to hand over the subject-plot to the GMC authorities.

List the case on 25.03.2022 to enable Mr. Deuri to obtain the above instructions and to place the same before the Court.

As per the prayer of Mr. Kaushik, learned counsel for the petitioner, he is permitted to implead "the Principal Secretary to the Government of Assam, Revenue and Disaster Management Department" as party-respondent no. 8 in the writ petition under his own handwriting before the Registrar [Judicial].

Mr. R. Borpujari, learned Standing Counsel, Revenue and Disaster Management Department has appeared and accepted notice on behalf of the newly impleaded party-respondent no. 8."

3. Thereafter, on 01.04.2022 the Court had passed the following order :-

"Heard Mr. B. Kaushik, learned counsel for the petitioner and Mr. C.S. Hazarika, learned counsel appearing on behalf of the respondent Deputy Commissioner. Also heard Mr. S. Bora, learned counsel appearing on behalf of the GDD Department and Mr. R. Borpujari, learned counsel appearing on behalf of the Revenue Department.

The grievance of the petitioner is that although an order was passed by the Chief Secretary on 11.05.2018 but till date the Deputy Commissioner has not allotted the land to the Guwahati Municipal Corporation.

It further appears from the records that this Court had issued notice on 22.02.2019 but no affidavit has been filed on behalf of the Deputy Commissioner. Further to that on 07.03.2022, this Court had specifically asked the Deputy Commissioner, Kamrup(M) to apprise this Court as regards the order dated 11.05.2018 but the same has not been done.

Consequently, as a last chance this Court fixes the matter on 06.04.2022. By that day the Deputy Commissioner, Kamrup(M) shall provide the necessary instructions as sought for in the order dated 07.03.2022 failing which this Court would be constrained to initiate appropriate proceedings.

A copy of this order may be served given to Mr. C.S. Hazarika, learned counsel appearing on behalf the Deputy Commissioner.”

4. Today, Mr. Chetia, learned Junior Government Advocate, Assam has placed a communication bearing no. KRS.634/2019/626-28 dated 06.04.2022 addressed to him by the Additional Deputy Commissioner, Kamrup [Metro], Guwahati, wherein, it was mentioned that the process of handing over the schedule of land to GMC authorities was in progress and 4 [four] weeks’ time would be needed to provide advance possession of the schedule land to the GMC authorities.

5. A period of 4 [four] weeks’ time has elapsed in the meantime but no further status report has been made available by the author of the communication dated 06.04.2022.

6. Sans the necessary details, it can be said that pursuant to the order dated 15.09.2017 passed by the Hon’ble Supreme Court of India in M.A. no. 403/2017 in SLP no. 14500/2017 [Machkhowa Vegetable Retailers Development Association vs. the State of Assam through the Commissioner Secretary & others], the Chief Secretary to the Government of Assam had convened a meeting of all the stakeholders and thereafter, passed the order bearing no. GDD.143/2016/173 dated 11.05.2018 [Annexure-6 to the writ petition]. The inaction on the part of author of the communication dated 06.04.2022 is prima facie suggestive of disobedience of the direction of the Hon’ble Supreme Court of India; of this Court as well as of the Chief Secretary to the Government of Assam.

6. In order to apprise this Court regarding the status of handing over possession of the scheduled land, the author of the communication dated 06.04.2022 shall appear in person before the Court on 03.06.2022 at 10-30 a.m.

7. A copy of this order be furnished to Mr. Chetia for taking necessary steps to communicate it to the official concerned from his end.