
(1998) 02 GAU CK 0047
In the Gauhati High Court
Case No : Civil Rule No. 937 of 1997

Miali Sidisow

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 05-02-1998

Acts Referred:

Citation : (1998) 2 GLT 97

Hon'ble Judges : D.N. Chowdhury, J

Bench : Single Bench

Advocate : B. Choudhury and R. Islam, for the Appellant; N. Saikia and T.N. Srinivasan, for the Respondent

Judgement

D.N. Chowdhury, J.—Heard Mr. B. Choudhury, the learned Counsel for the Petitioner. Also heard Ms. N. Saikia, the learned Counsel for the Respondents. Also heard Mr. Srinivasan, the learned Counsel for the Respondent No. 3.

2. In this proceeding the legitimacy of the order dated 20.11.96 and 13.12.96 is under challenge. By the above orders the Governor of Arunachal Pradesh accorded approval to shifting of headquarters of Nefra-Buragaon C.D. Block from Thrizino to Buragaon under West Kameng district in the interest of better development administration.

3. The Petitioner is an elected Anchal Samity Member, Thrizino. According to the Petitioner said development block headquarter was located at Thrizino since 1966 which was disputed by the Government Advocate and according to the learned Govt. Advocate it was located since 1980. The Petitioner has narrated that from time to time there was attempt for shifting of the headquarter from Thrizino and those move were resisted. By the impugned order the headquarter of Thrizino now sought to be shifted. Hence the writ petition challenging the legality and validity of the order.

4. Mr. Bhargab Choudhury, the learned Counsel for the Petitioner submitted that the impugned order of shifting the location of the Headquarter from Thrizino to

Buragaon is not only arbitrary but also emanate from malafide and malice of the Respondents more particularly that of the Respondent No. 3. who is a member of the State Legislature of 6th Thrizino-Buragaon Constituency.

5. Ms. N. Saikia, the learned Government Advocate submitted that the matter in question is purely relatable to the discretion of the administrative authority depending on the administrative convenience and public administration and this Court should not extend its jurisdiction in such matters. Ms. Saikia stoutly disputed the allegation of impropriety and malafide. Mr. Srinivasan the learned Counsel entered appearance on behalf of the Respondent No. 3. strenuously defended the conduct of the Respondent No. 3 and disputed the charge of malice towards any individual. According to Mr. Srinivasan the Respondent No. 3 acted and discharged his duty as a member of the legislative assembly and he acted in the public interest keeping in mind the interests of the entire locality. Ms. N. Saikia, the learned Counsel for the Respondents 1 and 2 cited to the affidavit of the Govt. and have stated that the decision of location of the Block Headquarter was taken after taking into consideration in the interests of better development of the area and for administrative convenience. More attention was also given to find out the place which is centrally located so as to facilitate all corners of a Block to the Headquarters by the people for whose benefit the block administration functions. On overall consideration Buragaon was considered to be a better location than Thrizino as it was centrally located headquarter. According to the Respondents Buragaon is about 99 Kms from the district headquarters Bomdilla whereas Thrizino is situated at a distance of about 124 Kms from Bomdilla. In the affidavit it was further stated that all aspects of the matter were duly considered which was taken note of by the Anchal Samittee in presence of the Petitioner.

6. I have heard learned Counsel for the parties at length. The matter of fixation of headquarters is undoubtedly based on the discretion of the Government and the Govt. is in a position to evaluate merits and demerits of a particular place as against other location of headquarters and the ultimate decision rests on the Govt. In such an area whether - the discretion is exercised prudently or not it is the administration which must have the final say. The remedy is to be rendered politically than judicially. It is presumed that those on whom the discretion is reposed that they would act with responsibility. At the same time the area of executive discretion cannot be over emphasised. Ultimately the decision is to be judged in the context of public interest and public confidence. The decision for locating a headquarter more particularly in an area like Arunachal Pradesh cannot only be based on administrative convenience. In such area the authority who is charged with the duty to locate the head quarter is also required to keep in mind the ethnic and ethnographic consideration and other like variables conscious of the simplicity of the people inhabited in those areas embracing variegated tribes and sub tribes with disparate speech and culture keeping its mind to those imponderables laws in this area is only reduced to essentials shorn of technicalities. The Constitution accordingly entrusted on the Governor a

special responsibility in this area, in addition to the executive power of the State.

7. I have heard the learned Counsel for the parties at length. The materials on record does not suggest any element of anxious or malice of the Respondent No. 3 Nor do I find any trace of impropriety in the conduct of the aforesaid Respondent No. 3 On overall consideration of the entire facts situation I am however of the view that the matter relating to the relocating and/or altering the Headquarter in question requires a fresh consideration by the authority. Accordingly I direct the Petitioner to make an appropriate representation before the Deputy Commissioner of the concerned Anchal Samittee within a month from the receipt of the certified copy of this order and the said Deputy Commissioner while considering the case of the Petitioner shall also take note of the communication issued by the Minister (RD) Arunachal Pradesh, C/Seppa dated 28.2.96 (Annexure-D to the writ petition) and also shall take note the communication of the Deputy Commissioner Bomdilla and the view of the concerned MLA. Since the matter relates to the administrative discretion, in a sensitive area the Respondents more particularly the Respondent No. 4 shall make his own evaluation on the subject on hearing the representatives of the concerned parties in accordance with law as well as the customary practice so far followed. The Deputy Commissioner shall thereafter forward his appraisal report to the Development Commissioner, Govt. of Arunachal Pradesh who shall thereafter take appropriate steps to place all the materials along with the appraisal report of the Deputy Commissioner before the Competent Authority who shall thereafter take a final decision on the subject in accordance with law. Till final decision is taken up the interim order dated 27.2.97 of this Court shall remain operative. Petition is allowed to the extent indicated. No costs.