
(2021) 07 GAU CK 0067

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3093 Of 2021

Prasanta Hazarika

APPELLANT

Vs

State Of Assam And 8 Ors.

RESPONDENT

Date of Decision : 14-07-2021

Acts Referred:

Assam Panchayat (Financial) Rules, 2002 — Rule 47, 47(3), 47(6), 47(7)

Citation : (2021) 07 GAU CK 0067

Hon'ble Judges : Prasanta Kumar Deka, J

Bench : Single Bench

Advocate : T J Mahanta

Final Decision : Dismissed

Judgement

Heard Mr. P. P. Dutta, the learned counsel appearing on behalf of the petitioner. Also heard Mr. M. Nath, the learned Standing Counsel for the

P&RD, Department, Assam.

The Golaghat Dakhin Anchalik Panchayat, the respondent No. 8 issued NIT under Memo No. G:D:A:P: 8/Market/Ghats/2021-22/3303 Dated

01.06.2021 for settlement of various Daily/Weekly Markets under its jurisdiction including the Nowjan Weekly market for the Panchayat year 2021-

22. On 17.06.2021 was the last date of submission as well as opening of the tenders. The petitioner was the lessee of the said market namely Nowjan

Weekly market who sustained huge loss in the previous year owing to closure of market by administration for long period due to Covid-19 pandemic.

The petitioner has submitted his representation on 29.04.2021 before the respondent No. 9, the Executive Officer cum Secretary, Golaghat Dakhin

Anchalik Panchayat, Sarupathar. In the said representation, the petitioner sought for further extension of the settlement for the period 2021-22 which

was forwarded to the respondent No. 7, the Chief Executive Officer, Golaghat Zilla Parishad. But the respondent authority without considering the

petitioner's grievances issued the impugned NIT dated 01.06.2021 with specific violation of Rule 47 of the Assam Panchayat (Financial) Rule,

2002 which stipulates that tender notice shall be floated at least forty five days before the last day of Panchayat Financial year i.e. 30.06.2021 and

wide publicity as per Rule 47 (3) of the said Rule, 2002. Accordingly the petitioner has filed this writ petition for setting aside the said NIT dated

01.06.2021 and also for issuance of direction to consider the grievance of the petitioner by disposing the representation dated 29.04.2021 and

04.06.2021.

Mr. Nath, the learned Standing Counsel for the P&RD Department, Assam vehemently objected to the relief/reliefs sought for in this writ petition.

Referring to the provisions of Rule 49 of the Assam Panchayat (Financial) Rule, 2002 it is submitted that in the Rules there is no provision for allowing

extension of lease period except the Rule 49 permits consideration of remission in cases on special grounds arising out of any natural calamities

beyond the control of the authority. In addition to that, Mr. Nath also relied the order dated 22.06.2021 passed by a Co-ordinate Bench in a similar

situation.

I have considered the submission of the learned counsel. I have perused Rule 49 of the Assam Panchayat (Financial) Rules, 2002 and order dated

22.06.2021 passed in WP(C)/3098/2021 wherein the learned Co-ordinate Bench relied the case law of Ali Akbar Vs State of Assam reported in 2009

(2) GLT 553 which dealt with a similar issue as in hand and came to the finding that when there is no provision made in the Assam Panchayat Act,

1994 for granting extension of the period of settlement and the Act makes it clear that the settlement shall be for one panchayat financial year it is not

possible for panchayat to extend the period of settlement even though the settlement holder or lessee might have sustained losses. In view of the

same, I am reluctant to accept the submission of Mr. Dutta, the learned counsel for the petitioner and not inclined to extend the lease period as sought

for. It is also placed on record by Mr. Nath that the representation of the petitioner dated 04.06.2021 was sent to the Secretary to the Government of

Assam, Panchayat & Rural Development Department by the Commissioner,

Panchayat & Rural Development Department, Assam for taking necessary action in respect of the prayer made in the representation dated 04.06.2021 by the petitioner. The said letter was issued on 08.07.2021 from the office of the Commissioner, Panchayat & Rural Development Department, Assam.

Regarding the other contention for setting aside the NIT dated 01.06.2021 it has been stated that the petitioner had participated in the said tender

process and in view of the same, in my considered view no observation or any finding in respect of violation of Rule 47 (6) and (7) of the Assam

Panchayat (Financial) Rule, 2002 is required to be discussed. In view of the letter dated 08.07.2021, the representation of the petitioner dated

04.06.2021 shall be disposed of within a period of 30 days from the receipt of the same by the respondent No. 1. Needless to say if the petitioner is

aggrieved by the order passed by the respondent No. 1, he shall have the liberty to claim the losses arising out of the lease agreement and its non

extension in respect of running of the said Nowjan Weekly Market which falls within Golaghat Dakhin Anchalik Panchayat, Golaghat in the

appropriate forum.

Accordingly this writ petition stands dismissed at this motion stage as consented to by the learned counsel.

The letter dated 08.07.2021 issued from the office of the Commissioner, Panchayat & Rural Development Department, Assam to the Joint Secretary

to the Government of Assam, Panchayat & Rural Development Department is kept on record.