
(2001) 07 GAU CK 0018

In the Gauhati High Court

Case No : Writ Petition (C) No. 77 (SH) of 2001

Sanjay R. Marak

APPELLANT

Vs

State of Meghalaya and Others

RESPONDENT

Date of Decision : 06-07-2001

Acts Referred:

Citation : AIR 2002 Guw 5 : (2001) 2 GLT 650

Hon'ble Judges : N. Surjamani Singh, J

Bench : Single Bench

Advocate : V.K. Jindal and L. Lyndoh, for the Appellant; B.P. Marngar, A.C. Borbora and R. Borbora, for the Respondent

Final Decision : Allowed

Judgement

N.S. Singh, J.—In this writ petition, the petitioner questioned the validity of the impugned office order dated 16.2.1999 and modification of it vide letters/orders dated 28th June, 1999 and 10th March, 2000 as seen in the documents marked as Annexures 6 and 7 to the writ petition thus, extending the time of operation in respect of Weigh Bridge at Wageasi for a period of 3 (three) years with effect from 1.4.2000 to 31.3.2003 with a condition and payment of 25% extension fee on the last year's bid value amounting to Rs. 5,00,000 (Rupees five lakhs) only to and in favour of private respondent No. 5 namely, Smt. Tillavinter Marak by contending, inter alia, that the petitioner is a public spirited citizen of India and by profession he is a businessman dealing in various kinds of contract works and, as such, He is an interested party having a locus standi in the matter relating to the leasing and settlement of the weigh bridge of the respondents but, the respondent, the Garo Hills Autonomous District Council in short, District Council instead of making settlement of the said weigh bridge of the respondents, the Executive Committee of it by its decision made on 7.3.1997, settled and made lease of the said weigh bridge namely, Wageasi Weigh Bridge for a period of 3(three) years on payment of Rs. 2,00,000 only with effect from 1.4.1997 to 31.3.2000 in six equal instalments as seen in the document marked as

Annexure-1 to the writ petition without following the procedural standard and also without following the prescribed provisions of the related regulations namely, the Garo Hills Autonomous District Council (Market Tax) Regulation, 1970 (Regulation No. 1 of 1971) hereinafter referred to as Regulation and the settlement was made directly without reasons by the said respondent No. 2 to and in favour of the respondent No. 5.

2. According to Mr. V.K. Jindal, learned senior counsel appearing for the petitioner, the respondent No. 5 is the wife of Hon'ble Minister of Forest etc. of the Government of Meghalaya and, as such, she has enough influence over the Administration of District Council and through influence, the weigh bridge was settled to the respondent No. 5. It is also submitted by Mr. Jindal, learned senior counsel that there has been differences amongst the District Council and the Deputy Commissioner concerned inasmuch as, the Deputy Commissioner, East Garo Hills District under his office letter dated 1.12.1998 intimated the District Transport Officer, East Garo Hills. Williamnagar that originally the weigh bridge at Wageasi belongs to the Transport Department of the Government of Meghalaya but, later-on it has been under the possession of the District Council after the District Council had taken over the said bridge at Wageasi forcibly and, at the moment, the District Council is operating the said weigh bridge illegally. Mr. Jindal, learned senior counsel contended that the 5th respondent who defaulted in payment of instalments in terms of the documents marked at Annexures-1 & 2 to the writ petition, the District Council by virtue of its office letter/order dated 16.2.1999 extended the time of operation of the said weigh bridge for another period of 3(three) years i.e. from 1.4.2000 to 31.3.2003 much before expiry of previous letter/settlement made with the respondent No. 5 that too, without calling any tender or issuing any public notice and the said office letter/order dtd. 16.2.1999 was further modified vide, subsequent letters/orders dated 28.6.1999 and 10.3.2000 without any justification. It is also the case of the petitioner that the petitioner is willing to take up the work of weigh bridge at Wageasi even at the rate of 10% higher price for which it was settled with the private respondent No. 5 by the District Council and even, if it is not allowed then, such settlement should be done by public auction or by tender system on such terms and conditions as laid down in the related regulation and with other conditions made for the purpose by the District Council.

3. Mr. A.C. Borbora, learned counsel appearing for the respondent Nos. 2, 3 and 4 submitted that since 8.5.2001, the District Council through its staff started collecting the weighing charges in respect of all weighment made in the said Weigh Bridge by issuing necessary receipts/vouchers thereby, keeping intact the revenue in the interest of the District Council for which the concerned Range Officer was directed to make necessary arrangement for collection of weighing charges through the forest staff of the District Council. According to Mr. Borbora, learned counsel, for the purpose of temporary and adhoc allotment of lease there cannot be any pick and choose policy and, as such, the earlier related interim order dated 11.5.2001 is liable to be vacated and the District Council may be

allowed to continue with the present interim arrangement made by it till determination of the writ petition by this Court. At this stage, Mr. Borbora, learned counsel has drawn my attention to the relevant paragraphs including paragraphs 6 & 8 of the miscellaneous application filed by the District Council-respondents under Misc. Case No. 95(SH) 2001, and also submitted that there is no infirmity in the impugned orders.

4. Be that as it may, this is the settled law of the land that settlement of a public property like, forest products, fishery, operation of coal mine, settlement of weigh bridge etc. may be in the form of lease or sale for certain period or periods, the same shall be done by the appropriate authority by putting the same for public auction or inviting tenders from all the interested and eligible persons by following the prescribed procedural standards laid down under the related regulations mentioned above or rules or law in force from time to time in order to avoid arbitrariness and discrimination. In the instant case, this Court seize a matter/an instance where the private respondent who happened to be the wife of a Minister has been granted settlement of weigh bridge, in other words, the operation of the weigh bridge at Wageasi from time to time right from the year 1997 till 31.3.2002 by issuing related orders, one after another and extending the period from time to time without notifying tenders and without making any public notification in the matter which, according to me, the last extension for operation of the said weigh bridge at Wageasi for another period of 3(three) years w.e.f. 1.4.2000 to 31.3.2003 on certain conditions under the impugned orders of 28.6.1999 and 10.3.2000 as in Annexures-6 & 7 to the writ petition is not tenable in the eye of law and, it amounts to discrimination to all concerned and the action of the respondents is against the public interest and. apart from it, the authority concerned, viz., the Garo Hills District Council did not follow the procedural standards rather, defied all the related norms and provisions laid down under the related regulation and, as such, this Court has no alternative but, to quash the same. Accordingly, these impugned orders are quashed.

5. It is needless to state that there should be transparency in the matter of settlement of such weigh bridge.

6. In view of the above position, the respondent Nos. 2, 3 & 6 namely, the Garo Hills Autonomous District Council, Tura, represented by its Secretary; the Executive Committee, Garo Hills Autonomous District Council, Tura through its Secretary as well as the Chief Executive Member, Garo Hills Autonomous District Council, Tura are directed to settle the lease right to collect tolls or taxes whatsoever the case may be in respect of the said weigh bridge at Wageasi in the District of East Garo Hills either by sale in public auction or by tender system on such terms and conditions as laid down under the related regulation and, with any other terms and conditions which the District Council deems it fit and proper by issuing public notification in the matter and by inviting interested person or persons for such purpose within a period of one month from the date of receipt of this order. It is also made clear that all the eligible person/persons including

the writ petitioner shall also be allowed to participate either in the said public auction or tender system for such settlement of weigh bridge at Wageasi and, in the meantime, the District Council through its authorised officer, viz., the Range Officer, Mendipathar Range shall be allowed to collect the weighing charges of the said Wageasi Weigh Bridge during the said period of 1(one) month only.

7. In the result, petition is allowed but, no order as to costs.