
(2019) 06 GAU CK 0072

In the Gauhati High Court

Case No : Public Interest Litigation No. 21 Of 2019

Satrong River Development Committee Rep

APPELLANT

Vs

State Of Assam Rep And Ors

RESPONDENT

Date of Decision : 19-06-2019

Acts Referred:

Citation : (2019) 06 GAU CK 0072

Hon'ble Judges : A.K. Goswami, J;Ajit Borthakur, J

Bench : Division Bench

Advocate : D Saikia

Final Decision : Disposed Off

Judgement

A.K. Goswami, J

Heard Mr. D. Saikia, leaned counsel for the petitioner. Also heard Mr. B. Goswami, learned Additional Advocate General, Assam, appearing for the respondent Nos.1 & 4 and Mr. H.K. Hazarika, learned State counsel, appearing for the respondent Nos.2, 3, 5 & 6.

This petition, in the nature of Public Interest Litigation (PIL), is filed with a prayer for a direction to the respondents to bring back the flow of Satrong River to its original course from the breached point at Ward No.6 in Gohpur Town Committee on the Southern side of the National Highway-15.

The facts, in a nutshell, as indicated in the petition are to the effect that Gohpur Town area is surrounded by Solengi River, Satrong River, Kukurjan River and Balijan River and all these rivers were merged with Satrong River, which is flowing through the middle of Gohpur Town. Satrong River breached the eastern bank at Southern side of National Highway-15 and the river started flowing over land of various villages causing damage and destruction of properties. It is in the background of the above facts, the present petition is structured with prayer, as already noticed hereinabove.

The Secretary to the Government of Assam, Water Resources Department has filed an affidavit, wherein it is stated that Satrong River (spelt as Chatrang River in the affidavit of the Water Resources Department) originates from the foothills from the Himalayan Range in the State of Arunachal Pradesh and the river meanders through the terrain in a zig-zag way before finally meeting at River Kharoi near Dhakhin Jaipur area after flowing through Gohpur Town. Initially, the bunds of Satrong River were constructed by the District Rural Development Agency (DRDA) but later on looked after by the Gohpur Town Committee. When the constructions were made by the DRDA, no sufficient water way was provided. It is admitted that the flood water of River Satrong had breached the right bank embankment in the Southern side of the National Highway-15 (52) at a distance of about 350 meters from the RCC bridge at Ward No.6 during the flood of 2018. It is also admitted that the river had left its original course and had started flowing through the country side.

Mr. Saikia submits that it appears from the stand taken in the affidavit that the Water Resources Department is alive to the threat posed by the Satrong River and, in the backdrop of the assertions made in the affidavit, submits that the PIL can be closed by directing the respondents to implement what is being portrayed in the affidavit.

Mr. Goswami submits that the matter has been taken in all seriousness it deserves. Though the breach cannot be closed permanently during the present monsoon season, in order to make an attempt to avert flood water flowing through the breach, temporary work shall be started within a fortnight.

In Paragraphs 5 & 7 of the affidavit filed by the Water Resources Department, it is stated as follows:-

"5. That as regards to the statements made in paragraph 4 to the PIL, your deponent begs to state that the river Chatrang is flowing through the Gohpur Town. During the flood of 2018, the flood water of the said river breached the right bank embankment in the southern side of the National Highway-15(52) at a distance of about 350m from the RCC Bridge at ward No.6. Due to the aforesaid breach, the said river left its original course and started flowing to the country side through the breach gap.

Be that as it may, the Water Resources Department of the State prepared a project namely, "Immediate Measures to breach closing of Gohpur Town Committee from flood Devastation of river Chatrang at D/S of NH-15 under SDRF for 2018-19" with an estimated amount of Rs.5 Crore for closure of the breach of the embankment at southern side of National Highway and to divert the river to its original course. The proposal was approved by the 38th meeting of the States Executive Committee of Revenue and Disaster Management Department for implementation. Further, the administrative Approval was accorded to the scheme vide No.RGR (RRR) 391/2019/52 dated 08-03-2019 by the Revenue and Disaster Management (GEN) department and the Technical sanction to the

scheme was accorded by the competent authorities as communicated by the Chief Engineer, Water Resources department vide No.WE(EDRT)277/2012-13/202 dated 12-03-2019, The NIT against the scheme was invited on 01-01-2019 and issue of work order against the scheme is under process.

It is specifically stated that under the scheme, it has been proposed to close the breach of embankment in the southern side of the National Highway and to divert the river back to its original course by constructing a RCC gravity wall. The provisions which have been made in the estimate can be summed up as follows:

- 1) Construction of RCC Gravity Wall for the length of 480.00m.
- 2) Construction of RCC Guard Wall at different locations.
- 3) Excavation of the deposited sediment in the original course of the river at the down stream of breach point for a length of 400m, which occurred due to diversion of the river through the breach gap.

On proper implementation, it is expected that the above measures shall be adequate to have a permanent closure of the breach gap as well as to divert the river to its original course. That apart, the flood inundation to the country side of the river due to spilling of the banks during high floods would be prevented. During execution of the scheme, the involvement of the District Authority and the Gohpur Town Committee will be required for efficient implementation.

It may not be out of context to mention that the flood season is now on, so it is not possible to execute the work during the current flood season. As such, the work against the scheme shall be taken up after the flood season with an aim to complete the same within 31st March, 2020 in all respects.

Since it is not possible to execute the permanent breach closing work immediately during the flood season, therefore, it is proposed to take up some temporary work as an attempt to close the breach gap temporarily.

It is categorically stated that the temporary work shall also be started within a fortnight.

7. That as regards the statements and submissions made in paragraph 8 to the PIL, your deponent begs to state that authorities in the answering department with a view to take effective steps in the present situation in question, necessary steps have been taken.

Apart from the aforesaid steps, the office of the Secretary to the Govt. of Assam vide his order dated Dispur, 7th June, 2019 has constituted a Committee comprising of the Chief Engineers of the department, the Chief Engineers, Quality Control of the department and the Superintendent Engineers, Nagaon, Water Resources division asking them to visit the area in question, examine the matter and to submit its report on or before 10th June, 2019 so that nothing is left unattended for effective construction under the scheme and also their suggestions towards preparation of parawise comment on behalf of the

department."

A perusal of the averments made in Paragraphs 5 & 7 of the affidavit, extracted hereinabove, goes to show that specifically to meet the situation arising out of the breach, which is highlighted in the petition, the Water Resources Department had prepared a Project named and styled as "Immediate Measures to breach closing of Gohpur Town Committee from flood Devastation of river Chatrang at D/ S of NH-15 under SDRF for 2018-19" at an estimated amount of ` 5 Crores for closure of the breach of the embankment and to divert the river to its original course. What steps will be taken in the process have also been stated. Administrative approval and technical sanction had also been secured and a Notice Inviting Tender (NIT) against the scheme was also invited. It is expressed in the affidavit that the measures to be undertaken as detailed in the affidavit would be adequate to permanently close the breach and divert the river to its original course. It is also indicated that the Department will endeavour to complete the Project by 31.03.2020, though the work cannot be started during the current monsoon season. It is also noticed that the Secretary of the Department had constituted a High Powered Committee to make on the spot study of the ground realities so that the measures can be taken in an effective manner.

In view of the averments made in the affidavit, we are of the opinion that the present PIL need not be continued to be entertained and accordingly, the same is closed, providing that the Water Resources Department will make all attempts to complete the Project by 31.03.2020. Temporary measures, as may be considered appropriate to tide over the present monsoon season, shall also be undertaken. It is also provided that in case during implementation of the Project, help is required from the Civil Administration and the Gohpur Town Committee, such authorities will render necessary help to the Water Resources Department.

We also reserve liberty to the petitioner to approach this Court again by way of a fresh PIL in case for whatever reasons work does not progress in the manner it should have progressed.

With the above observation and direction, the public interest petition is closed.