

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Mizoram & Arunachal Pradesh)

WP(C) 4741/2006

Sri Gopinath Sonowal Petitioner
Son of Late Kusharam Sonowal,
Village : Gagal Dubi, Majgaon,
Mouza : Kadam, P.O. Borkhelia,
District - Lakhimpur.

Vs

1. The State of Assam Respondents
represented by the
Secretary to the Govt. of
Assam Revenue (settlement) Dispur,
Guwahati – 6.
2. The Deputy Commissioner
Lakhimpur,
North Lakhimpur.

BEFORE

HON'BLE Mr. JUSTICE N. CHAUDHURY

For the Petitioner	::	Mr. P.K. Goswami, Mr. A. Barman, Ms. M. Bordooli Ms. M. Devi learned counsel for the petitioner
For the Respondents	::	Mr. Bhagabati learned Govt. Advocate for the respondents
Date of hearing	::	07.08.2013
Date of delivery of Judgment	::	07.08.2013

JUDGMENT & ORDER(ORAL)

1. Heard Mr. P.K. Goswami, learned counsel for the petitioner and Mr. Bhagabati, learned Government Advocate on behalf of respondents No. 1 & 2.

2. Order dated 30.08.2006 issued by the Deputy Secretary to the Government of Assam, Revenue (Settlement) Department thereby de-reserving 40 bighas 1 katha land, land covered by Dag No. 283 of village No. 2 of Gogal Dubi under Kadam Mouza and thereby rehabilitating 22 nos. of flood erosion affected families with 1 bigha per family subject to utilisation for specific purpose within 3 years, failing which the land so allotted would automatically stand cancelled and reverted to the Government. The said order has been challenged before this Court under Article 226 of the Constitution of India by the present petitioner on the ground that the members of the Society, namely, Gagol Dubi Grazing Sangrakshyan Samiti constituted for protection of all grazing land submitted representation before the Deputy Commissioner, Lakhimpur on 18.08.2006 apprehending such de-reservation of VGR land for allotment to undeserving persons. According to the petitioner, the said representation dated 18.08.2006 did not receive any consideration of the concerned authority and in the process the aforesaid order dated 30.08.2006 was issued by the respondents de-reserving the VGR land.

3. Learned counsel Mr. P.K. Goswami fairly submits that he would have no objection if the allotments are made to the genuine landless persons. His only apprehension is that de-reservation of the 40 bighas 1 katha VGR land followed by allotment of the said land with 22 families was not preceded by any proper inquiry in accordance with law to find out the genuine beneficiaries for settlement. Considering the prayer of the petitioners, this Court while admitting this petition on 20.09.2006 passed an interim order staying operation of the settlement

order dated 30.08.2006. Of course the said interim order was upto the returnable date. It appears that this writ petition was not listed on the returnable date and came-up for consideration in hearing list in the month of July this year only. Thus, the interim order granted earlier had been in force for all these years. It is not clear as to whether the beneficiaries of the order dated 30.08.2006 were handed over land before communication of the interim order of this Court. If not no right accrued to them and as such failure to implead them in this writ may not be fatal. At best they would have been proper parties in this case.

4. Having regard to the facts and circumstances of the case as stated above and in view the fair submission made by Mr. P.K. Goswami, the learned counsel for the petitioner as well as Mr. Bhagabati, learned Government Advocate I feel, ends of justice shall be met if this writ petition is disposed of with direction to the respondents No. 1 & 2 to ascertain as to whether the allotments made by order dated 30.08.2006 were made in due observance of the law holding the field and after ascertaining the eligibility of the beneficiaries. The enquiry should be made within a period of 3 months from today and the petitioner as well as the beneficiaries may be afforded adequate opportunity to participate in the process of enquiry.

5. Writ petition is disposed of.

6. No order as to costs.

sds

JUDGE