

GAHC040000642011



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 105/2011

1:SHRI PUGI KAMBU
S/O SHRI BINPU KAMBU, PERMANENT RESIDENT OF RISE VILLAGE,
PO/PS KAMBA, WEST SIANG DIST. ARUNACHAL PRADESH, PRESENTLY
RESIDING AT NAHARLAGUN, PAPUM PARE DIST. AP

VERSUS

1:STATE OF AP
REPRESENTED BY THE SECRETARY, LAND MANAGEMEN AND REVENUE,
GOVT. OF AP ITANAGAR

2:2. THE DIRECTOR
DEPARTMENT OF LAND MANAGEMENT
GOVT. OF AP ITANAGAR

3:3. THE DEPUTY COMMISSIONER
CAPITAL COMPLEX
ITANAGAR
NAHARLAGUN
PAUM PARE DIST. A

Advocate for the Petitioner : MrN Ratan

Advocate for the Respondent : GA

**BEFORE
HON'BLE MR. JUSTICE NANI TAGIA**

Date of hearing & Judgment: 27.11.2019

JUDGMENT AND ORDER (Oral)

Heard Mr. N. Ratan, learned counsel for the petitioner and Mr. D. Kamduk, learned Standing Counsel for the Land Management Department, representing respondents No.1 & 2. Also heard Ms. K. Wangmu, learned State Counsel for the State respondents, respondent No.3.

2. The petitioner has put to challenge the order dated 04.06.2010, issued by the Deputy Commissioner, Capital Complex, Itanagar, vide No.DC/LBR-0334/2005, by which order, the approval order dated 30.06.2008 for allotment of land measuring 363 Sq. Mtrs. for residential purpose at Barapani, Naharlagun to the writ petitioner was cancelled.

3. The facts leading to filing of the present writ petition may be stated as follows:

4. By a letter dated 30.06.2008 written by the Director of Land Management Department, Govt. of Arunachal Pradesh to the Deputy Commissioner, Papum Pare District, Yupia, vide No.LM-40/2003, which is an approval for allotment of land measuring 363 Sq. Mtrs. for residential purpose at Barapani, Naharlagun in favour of the writ petitioner was conveyed. In the said letter dated 30.06.2008, the Deputy Commissioner, Papum Pare District, Yupia was also conveyed to issue formal land allotment order in favour of the writ petitioner. One of the conditions, however, provided in the letter dated 30.06.2008, while issuing formal land allotment order, was that no land within the allotted premises of private individuals, Govt. Departments, Semi-Govt. Departments, Central Govt. Departments, organizations or institutions be allotted twice which may create problem for the administration.

5. As the formal land allotment order remained not issued to the petitioner, despite the letter dated 30.06.2008 as indicated above, the writ petitioner had to approach this Court by filing a writ petition being WP(C) No.59(AP) of 2009, praying for a direction for issuance of formal land allotment order. The WP(C) No.59(AP) of 2009 was disposed of by this Court vide an order dated 05.06.2009, whereby the Deputy Commissioner, Papum Pare District, Yupia was directed to issue formal land allotment order in favour of the writ petitioner in respect of the land in question, as referred to in the letter dated 30.06.2008 issued by the Director of Land Management Department, Govt. of Arunachal Pradesh.

6. It is further stated by the petitioner that against the order dated 05.06.2009, passed in WP(C)59(AP) of 2009, the State respondents had filed a Review petition being Review Petition No.03(AP) of 2010, which was eventually dismissed by this Court, vide order dated 10.05.2010. Even after the dismissal of the Review petition filed by the State authorities seeking a review of the direction given by this Court to

issue a formal land allotment order, as the Deputy Commissioner did not take any further steps to issue a land allotment order to the petitioner as directed by this Court, the writ petitioner filed a contempt petition being Contempt Petition No.16(AP) of 2010. After the contempt petition was filed, the impugned order dated 04.06.2010 was issued by the Deputy Commissioner, Capital Complex, Itanagar, whereby, the approval order dated 30.06.2008 for allotment of land to the petitioner has been cancelled.

7. The State respondents have contested the case by filing two counter affidavits by the respondents No. 1 & 2 and respondent No.3, respectively. In both the counter affidavits, the respondent authorities have contended that the land referred to in the approval order dated 30.06.2008 in favour of the writ petitioner have already been allotted to the Department of Subsidiary Intelligence Bureau ('SIB' for short). As no particulars of the land allotment being made to the SIB was given in the counter affidavits filed by the respondents, the respondent No.3, filed an additional affidavit, wherein it has been stated that the land in question was already allotted to the SIB as far back as in the year 1981 vide No.CP/L/6/79, dated 13.03.1981, for an area measuring 19516 Sq. Mtrs. bounded by; in the North- Old Naharlagun Itanagar road, South- Old Road and residence of Shri Lechi Legi, East-plot of Shri Hage Tadey and West-Pachin River and small Nallah.

8. The impugned order dated 04.06.2010 would also indicate that the spot verification of the land in question was conducted. It was in the light of the above fact that the land being already allotted to the SIB, the Deputy Commissioner had cancelled the approval letter dated 30.06.2008 for allotment of land to the writ petitioner.

9. The cancellation of the approval order for allotment of land to the writ petitioner vide order dated 30.06.2008, issued by the Director of Land Management Department, Govt. of Arunachal Pradesh, Itanagar is also found to have done on the basis of one of the conditions contained in the approval order date 30.06.2008, itself that no land within the allotted premises of private individuals, Govt. Departments, Semi-Govt. Departments, Central Govt. Departments, organizations or institutions be allotted again so as to avoid problem for the administration. In that view of the matter no fault can be found in the impugned order dated 04.06.2010 issued by the Deputy Commissioner, Capital Complex, Itanagar.

10. Accordingly, the writ petitioner has failed to make out any case requiring interference by this Court in exercise of power conferred under Article 226 of the Constitution of India. The writ petition fails and the same is dismissed.

11. Notwithstanding, the dismissal of the writ petition, if the land in question is found to be lying vacant and not used by the SIB, as submitted by the learned counsel for the petitioner, the respondent authorities may consider the allotment of the land in question in favour of the writ petitioner.

With the above observations, the writ petition stands **disposed of**.

JUDGE

Comparing Assistant