



GAHC010206502022

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

WRIT PETITION (C) No. 6644/2022

1. Ratan Biswas, Son of Sri Nakhan Biswas, Resident of Borpak, P.O.- Borpak, P.S.- Mayong, District- Morigaon, Assam.
2. Sri Jatan Biswas, Son of Sri Nakhan Biswas, Resident of Borpak, P.O.- Borpak, P.S.- Mayong, District- Morigaon, Assam.

.....Petitioners

-Versus-

1. The State of Assam, represented by the Secretary to the Government of Assam, Panchayat and Rural Development, Dispur, Guwahati- 781006.
2. The Joint Secretary to the Government of Assam, Panchayat and Rural Development, Dispur, Guwahati- 781006.
3. The Commissioner, Panchayat and Rural Development, Assam, Juripar, Panjabari, Guwahati- 781037.
4. The Deputy Commissioner, Morigaon, P.O., P.S. and District - Morigaon, Assam.
5. The Deputy Commissioner, Kamrup (M), P.O.- Panbazar, P.S.- Panbazar, Guwahati, Assam.



6. The Morigaon Zilla Parishad, represented by the Chief Executive Officer, Morigaon Zilla Parishad, P.O. P.S. and District – Morigaon, Assam.
7. The Kamrup (Metro) Zilla Parishad, represented by the Chief Executive Officer, Kamrup (M) Zilla Parishad, District – Kamrup (M), Assam.
8. The Chief Executive Officer, Kamrup (M) Zilla Parishad, District – Kamrup (M), Assam.
9. The Mayong Anchalik Panchayat, represented by the Executive Officer, Mayong Anchalik Panchayat, P.O. and P.S.- Mayong, District – Morigaon, Assam.
10. The Dimoria Anchalik Panchayat, represented by the Executive Officer, Dimoria, District – Kamrup (M), Assam.
11. Sri Dilip Das, Moholdar, Borpak Parghat, Dimoria Anchalik Panchayat.

.....**Respondents**

With

WRIT PETITION (C) No. 6648/2022

1. Sri Prasanta Biswas, Son of Sri Jitendra Biswas,
Resident of Bordoloni, P.O.- Borpak, P.S.- Mayong,
District- Morigaon, Assam.
2. Sri Jayanta Biswas, Son of Sri Jitendra Biswas, Resident
of Bordoloni, P.O.- Borpak, P.S.- Mayong, District-
Morigaon, Assam.

.....**Petitioners**

-Versus-

1. The State of Assam, represented by the Secretary to



the Government of Assam, Panchayat and Rural Development, Dispur, Guwahati- 781006.

2. The Joint Secretary to the Government of Assam, Panchayat and Rural Development, Dispur, Guwahati- 781006.
3. The Commissioner, Panchayat and Rural Development, Assam, Juripar, Panjabari, Guwahati- 781037.
4. The Deputy Commissioner, Morigaon, P.O., P.S. and District - Morigaon, Assam.
5. The Deputy Commissioner, Kamrup (M), P.O.- Panbazar, P.S.- Panbazar, Guwahati, Assam.
6. The Morigaon Zilla Parishad, represented by the Chief Executive Officer, Morigaon Zilla Parishad, P.O. P.S. and District – Morigaon, Assam.
7. The Kamrup (Metro) Zilla Parishad, represented by the Chief Executive Officer, Kamrup (M) Zilla Parishad, District – Kamrup (M), Assam.
8. The Chief Executive Officer, Kamrup (M) Zilla Parishad, District – Kamrup (M), Assam.
9. The Mayong Anchalik Panchayat, represented by the Executive Officer, Mayong Anchalik Panchayat, P.O. and P.S.- Mayong, District – Morigaon, Assam.
10. The Dimoria Anchalik Panchayat, represented by the Executive Officer, Dimoria, District – Kamrup (M), Assam.
11. Sri Thanuram Rongpi, Moholdar, Baha Parghat, Dimoria Anchalik Panchayat.

.....***Respondents***



Advocates :

Petitioners : Mr. H.P. Nepal, Advocate.
Respondents : Mr. S. Dutta, Standing Counsel,
Panchayat and Rural Development Department
: Mr. S.S. Roy, Junior Government Advocate, Assam
Respondent no. 11
in W.P.[C] no. 6648/2022 : Mr. S. Banik, Advocate
Date of Hearing, Judgment & Order : 23.08.2023

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
JUDGMENT

Heard Mr. H.P. Nepal, learned counsel for the petitioners in both the writ petitions; Mr. S. Dutta, learned Standing Counsel, Panchayat and Rural Development Department; Mr. S.S. Roy, learned Junior Government Advocate, Assam for the respondent nos. 4 & 5; and Mr. S. Banik, learned counsel for the respondent no. 11 in W.P.[C] no. 6648/2022.

2. In these two writ petitions instituted under Article 226 of the Constitution of India, the issues raised are in relation to three parghats, viz. [i] Baha Ferry Ghat; [ii] Barpak Ferry Ghat; and [iii] Theng Bhanga Ferry Ghat which are on the two sides of River Kolong. One of the issues raised is whether the said three parghats fall within the territorial jurisdiction of Morigaon district, more particularly, within the territorial jurisdiction of Mayong Anchalik Panchayat or within the territorial jurisdiction of Kamrup [M] district, more particularly, within the territorial jurisdiction of Dimoria Anchalik Panchayat.

3. On an earlier point of time, similar disputes as regards the location of the said three parghats arose and the matter was dealt by the Panchayat and Rural Development Department, Government of Assam culminating in an Order dated 02.07.2001. The authorities from Mayong Development Block, Morigaon district and Dimoria Development Block, Kamrup [M] district were heard. When the authorities from the Mayong Development Block, Morigaon district and the Dimoria Development Block, Kamrup [M] district had made respective claims to the effect that the three parghats fall within their respective territorial jurisdiction, the trace map and other records were verified. After verification of the records, it was found that an inter-district boundary line of the two districts falls on the centre line of River Kolong. By the Order dated 02.07.2001 passed by the Panchayat and Rural Development Department, Government of Assam, in exercise of the powers conferred by the provision contained in sub-section [5] of Section 106 of the Assam Panchayat Act, 1994, the matter was disposed of with a direction that the three parghats shall be settled by the two Anchalik Panchayats – Mayong Anchalik Panchayat and Dimoria Anchalik Panchayat – by rotation every year. It was further observed that the revenue earned from the three parghats shall be equally distributed between the two Anchalik Panchayats.

4. The two petitioners in the writ petition, W.P.[C] no. 6644/2022, are inhabitants of areas within the territorial jurisdiction of Mayong Anchalik Panchayat, District – Morigaon. They have canvassed that they are desirous of participating in the bidding process for settlement of the said three parghats. They have instituted the writ petition with the contention that despite the said three parghats falling within the territorial jurisdiction of Mayong Anchalik Panchayat, District – Morigaon, the authorities in Dimoria Anchalik Panchayat

had proceeded with the bidding process for settlement of the said three parghats. They have instituted the writ petition seeking setting aside of an Order dated 27.09.2022 passed by the Chief Executive Officer, Kamrup [M] Zilla Parishad whereby the parghat named Barpak Parghat has been settled in favour of the respondent no. 11 therein. It is averred that the petitioner no. 1 along with some others preferred a writ petition, W.P.[C] no. 4445/2021 against the alleged inaction on the part of the respondent authorities in Morigaon Zilla Parishad/Mayong Zilla Parishad in not taking effective action in determining the territorial jurisdiction of the two districts, that is, [i] Kamrup [M] and [ii] Morigaon over the said three parghats. It has been averred that by submitting a Representation dated 22.02.2021 before the Panchayat and Rural Development Department, they had sought for re-verification of the territorial jurisdiction of the said three parghats as, according to them, they fall within the territorial jurisdiction of Mayong Anchalik Panchayat, District – Morigaon. It transpires that on receipt of the said Representation, the Government in the Panchayat and Rural Development Department by its Communication dated 09.03.2021 asked the Chief Executive Officer, Morigaon Zilla Parishad to furnish a detailed report after re-verification of the territorial jurisdiction of the said three parghats.

5. In the other writ petition, W.P.[C] no. 6648/2022, the two petitioners who are also inhabitants of areas within Mayong Anchalik Panchayat, District – Morigaon, have raised similar issues. The petitioner no. 2 in W.P.[C] no. 4445/2021 is the petitioner no. 1 in this writ petition. They have challenged an Order of settlement dated 27.09.2022 passed by the Chief Executive Officer, Kamrup [M] Zilla Parishad whereby the parghat named Baha Parghat had been settled in favour of the respondent no. 11 for the Panchayat Financial Year : 2022 – 2023, consequently upon initiation of a bidding process initiated by a

Tender Notice dated 11.05.2022 inviting bids for settlement of the three parghats. In this writ petition, the petitioners have referred to the statements made in an affidavit-in-opposition filed by the Executive Officer, Mayong Anchalik Panchayat in W.P.[C] no. 4445/2021. In the said affidavit-in-opposition, it was averred that the whole of Kolong River falls within the jurisdiction of Morigaon district. The petitioners have claimed that as the entire Kolong River comes within the jurisdiction of Morigaon district, the three parghats are required to be settled by the jurisdictional Anchalik Panchayat i.e. Mayong Anchalik Panchayat, District – Morigaon.

6. During the pendency of the two present writ petitions, a joint field verification on the instruction of the Panchayat and Rural Development Department was carried out on 05.04.2023 with the participation of [i] the Circle Officer, Mayong Revenue Circle; [ii] the Circle Officer, Sonapur Revenue Circle; [iii] the Executive Officer, Mayong Anchalik Panchayat; and [iv] the Executive Officer, Dimoria Anchalik Panchayat; along with the Land Records Staff of both the Revenue Circles. The said team of officials submitted a Joint Verification Report on 09.04.2023. A copy of the Joint Verification Report has been annexed to the affidavit-in-opposition filed by the respondent no. 4 in the writ petition, W.P.[C] no. 6648/2022.

7. As per the Joint Verification Report, which has been filed after verification of the documents and map, the inter-district boundary line of Kamrup [M] and Morigaon District falls in the centre line of Kolong River.

8. As per sub-section [1] of Section 106 of the Assam Panchayat Act, 1994, all public ferries, other than Government ferries within the territorial jurisdiction of an Anchalik Panchayat shall be settled in the manner prescribed for a period

coinciding with and not exceeding one Panchayat Financial Year by inviting tenders at the office of the Anchalik Panchayat by its President. As per sub-section [4] of Section 106 of the Assam Panchayat Act, 1994, all settlements made thereunder shall be subject to the confirmation of the Jurisdictional Zilla Parishad. The first proviso to sub-section [4] of Section 106 has provided that in case of any dispute the Anchalik Panchayat may refer such cases to the Government and the aggrieved party may appeal to the Government whose decision in this regard shall be final. The second proviso to Section 106[4] has provided further that as and when deemed necessary, the Government may intervene in the matter of a particular settlement and its decision in this regard shall be final. The third proviso to Section 106[4] has provided further that the State Government may issue order to Anchalik Panchayat for the settlement of a public ferry falling within the jurisdiction of more than one Anchalik Panchayat or Zilla Parishad.

9. By the Order dated 02.07.2001, the Government in the Panchayat and Rural Development Department after verification of the records had already directed in exercise of the powers conferred under Section 106 of the Assam Panchayat Act, 1994, to the effect that the three parghats shall be settled by the two Anchalik Panchayats – Mayong Anchalik Panchayat and Dimoria Anchalik Panchayat – by rotation every year and the revenue earned from these parghats shall be equally distributed between the two Anchalik Panchayats. Such direction was made after reaching a finding that the inter-district boundary line of Morigaon District and Kamrup [M] district fall on the centre line of River Kolong and since the three parghats are in relation to River Kolong, the revenues earned from them are to be shared equally, with each Anchalik Panchayat getting the opportunity of settling the three parghats by rotation every year. The



Joint Verification Report dated 09.04.2023 which has been submitted after a field verification and verification of all the documents, has again reached the same finding that the inter-district boundary line of Kamrup [M] district and Morigaon district falls in the centre line of Kolong River. There is no challenge to the power, authority and jurisdiction of the State Government to pass the Order dated 02.07.2001, which had been passed under Section 106 of the Assam Panchayat Act, 1994.

10. In view of such finding as regards the territorial locations of the three parghats, there is no valid ground available for entertaining the two writ petitions any further wherein the issue of such territorial jurisdiction has been raised without any other *prima facie* cogent materials. Further, this Court does not find any good and sufficient reason to depart from the view taken by the Panchayat and Rural Development Department in its Order dated 02.07.2001. In view of the above, both the writ petitions are dismissed. No cost.

JUDGE

Comparing Assistant