



GAHC010210322022

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

Case No. : WP(C)/6724/2022

NAZRUL ISLAM

S/O- HAZARAT ALI, VILL.- SHILOCHI PATHER, P.O. BALAJAN, P.S.
BAGHBOR, DIST. BARPETA, PIN- 781308, LEASEE OF SHOWRAR BITHA,
JANAPRIYA ANCHALIK GORUR BAZAR.

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT, DISPUR,
GUWAHATI-781006.

2:THE DIRECTOR

PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER
BARPETA
PIN- 781301.

4:THE BARPETA ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
BARPETA
PIN- 781301.

5:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
PIN- 781301.

6:THE EXECUTIVE OFFICER



MANDIA ANCHALIK PANCHAYAT
P.O. MANDIA
DIST. BARPETA
PIN- 781308.

7:THE ANCHALIK PANCHAYAT
MANDIA
P.O. MANDIA
DIST. BARPETA
PIN- 781308.

8:THE SUPERINTENDENT OF POLICE
BARPETA
PIN- 781301.

9:THE OFFICER-IN-CHARGE
BAGHBOR POLICE STATION
DIST. BARPETA
PIN- 781308

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 03-11-2022

JUDGMENT & ORDER (ORAL)

Heard Ms. T Begum, learned counsel for the petitioner, Mr. S Dutta, learned counsel for the respondents No. 1, 2, 4, 5, 6 and 7 being the authorities in the P&RD Department and Ms. M Barman, learned Junior Government Advocate for the respondents No. 3, 8 and 9 respectively being the Deputy Commissioner, Barpeta, Superintendent of Police, Barpeta and the Officer-in-Charge of Baghbor Police Station.

2. Pursuant to a Notice Inviting Tender (NIT) dated 27.06.2022 of the Mandia Anchalik Panchayat, the Showrar Bitha Janpriya Anchalik Gorur Bazar was settled with the petitioner Nazrul Islam for the year 2022-23 w.e.f.



16.08.2022 to 30.06.2023 as per the order of settlement dated 01.09.2022 of the Barpeta Zila Parishad. Accordingly, the petitioner entered into an agreement and is operating the cattle market.

3. After operating the market upon taking possession, the Officer-in-Charge of Baghbor police station had interfered with the operation of the market by requiring the petitioner to close the cattle market. In response thereof, the petitioner also filed a representation dated 07.10.2022 before the Barpeta Zila Parishad which is annexed as Annexure-6 to the writ petition. In the said representation of 07.10.2022 it is stated that on 01.10.2022, the Officer-in-Charge of Baghbor police station verbally directed the petitioner to stop operating the market. The petitioner was given to understand that Officer-in-Charge of Baghbor police station acted pursuant to the provisions of the Assam Cattle Preservation Act, 2021 (in short Act of 2021) as amended by the Assam Cattle Preservation (Amendment) Act, 2021 (in short Amendment Act of 2021).

4. In course of the hearing of the writ petition, it is the stand of the respondent Officer-in-Charge of Baghbor police station that he had acted pursuant to the provisions of the Act of 2021 as amendment by the Amendment Act of 2021.

5. In the circumstance, we examine the provisions of both the Acts to arrive at a conclusion as to whether any such interference by the Officer-in-Charge could have been made in the operation of the cattle market.

6. A reading of the provisions of the Act of 2021 makes it discernible that section 4 thereof provides that notwithstanding anything contained in any other law for the time being in force or in any usage to the contrary, no person shall slaughter or cause to be slaughtered, or offer or cause to be offered for

slaughter of any cattle, provided that killing of a cattle by accident shall not be considered as slaughter under the Act.

Section 5 of the Act of 2021 provides that notwithstanding anything contained in any other law for the time being in force or in any usage to the contrary, no person shall slaughter or cause to be slaughtered, or offer or cause to be offered for slaughter any cattle unless he had obtained in respect thereof a certificate in writing, issued by the registered Veterinary Officer under Animal and Husbandry Department for the area in which the cattle is to be slaughtered and the procedure and the restrictions of issuing such certificate is provided from section 5(2) onwards.

Section 6 of the Act of 2021 provides that no cattle in respect of which a certificate has been issued under section 5 shall be slaughtered in any place other than a slaughter house duly licensed or recognized under a Central or State Act or any rules or regulations made under the Act of 2021 or other premises as may be specified in the certificate as per rules framed under the Act.

Section 7 of the Act of 2021 provides that no person shall transport or offer for transport or cause to be transported any cattle, without valid permit, from any place of other state through Assam to any place outside state of Assam as well as from any place within the state of Assam to any place outside the state of Assam where slaughter of cattle is not regulated by law.

Section 7(3) of the Act of 2021 provides that no person shall transport or offer for transport or cause to be transported any cattle from any place within the State, the slaughter whereof is punishable under the Act.

Section 7(4) of the Act of 2021 provides that notwithstanding anything

contained in sub-sections (1),(2) and (3), the competent authority may issue permit for transport of cattle for bona-fide agricultural or animal husbandry purposes as prescribed in the rules framed under the Act.

7. By the Amendment Act of 2021, Section 7(3) and &(4) had stood amended whereby the amended Section 7(3) provides that no person shall transport or offer for transport or cause to be transported any cattle from any place within the State of Assam to any other place in a district within the State which shares international border with any foreign country, slaughter whereof is punishable under the Act, whereas Section 7(4) had been amended by providing that notwithstanding anything contained in sub sections (1), (2) and (3), the competent authority may issue permit to any agency or farm, registered under the Animal Husbandry and Veterinary Department, Assam for transport of cattle for bona-fide agricultural or animal husbandry purposes or for transportation of cattle for trade for the said purposes as may be prescribed in the Rules framed under the Act.

8. The relevant provisions of the Act of 2021 and the Amendment Act of 2021 are quoted herein below:-

“5. Notwithstanding anything in any other law for the time being in force or in any usage to the contrary, no person shall slaughter or cause to be slaughtered, or offer or cause to be offered for slaughter any cattle unless he had obtained in respect thereof a certificate in writing, issued by the registered Veterinary Officer under Animal and Husbandry Department for the area in which the cattle is to be slaughtered, that the cattle is fit for slaughter.

6. No cattle in respect of which a certificate has been issued under section 5 shall be slaughtered in any place other than a slaughter house duly licensed or recognized under a Central or State Act or any rules or regulations made hereunder or other premises as may be specified in the certificate as per rules framed under this Act:

Provided that the State Government may exempt certain places of worship or certain occasions for slaughter of cattle other than calf, heifer and cow for religious purposes.

7. Prohibition on transport of cattle-

(1) No person shall transport or offer for transport or cause to be transported any cattle, without valid permit, from,-

(i) any place of other state through Assam to any place outside state of Assam.

(ii) any place within the state of Assam to any place outside the state of Assam where slaughter of cattle is not regulated by law.

(2) No person shall transport or offer for transport or cause to be transported any cattle from any place of other state to any place within the state the slaughter whereof is punishable under this Act.

(3) No person shall transport or offer for transport or cause to be transported any cattle from any place within the State, the slaughter whereof is punishable under this Act.

(4) Notwithstanding anything contained in sub-sections (1),(2) and (3), the competent authority may issue permit for transport of cattle for bona-fide agricultural or animal husbandry purposes as prescribed in the rules framed under this Act."

Amendment Act of 2021:

7(3) No person shall transport or offer for transport or cause to be transported any cattle from any place within the State of Assam to any other place in a district within the State which shares international border with any foreign country, the slaughter whereof is punishable under this Act.

7(4) Notwithstanding anything contained sub-sections (1), (2) and (3), the competent authority may issue permit to any agency or farm, registered under the Animal Husbandry and Veterinary Department, Assam for transport of cattle for bona-fide agricultural or animal husbandry purposes or for transportation of cattle for trade for the said purposes as may be prescribed in the rules framed under this Act".

9. A reading of the aforesaid provisions makes it discernible that the Act of 2021 as amended by the Amendment Act of 2021 provides for restrictions on slaughter and transportation of cattle.

10. Section 3(a) of the Act of 2021 defines 'Animal Market' to be the market place or sale yard or any other premises or place to which animals are brought from other places and offered or displayed for sale or auction and includes animal fairs and cattle pounds, as duly licensed or recognized under a State Act or any other law for the time being in force or any Rules or Regulations made

thereunder.

11. The provisions of Section 3(a) of the Act of 2021 makes it discernible that it is an accepted concept even under the Act of 2021 an Animal Market may exist but in the manner as duly licensed or recognized under a State Act or any other law for the time being in force or any Rules and Regulations made thereunder.

12. We have already noted that the petitioner was settled with the Showrar Bitha Janpriya Anchalik Gorur Bazar as per the order of settlement dated 01.09.2022 by the Barpeta Zila Parishad, which settlement in fact had been made under the provisions of the Assam Panchayat Act, 1994. In other words, the cattle market of the petitioner would have to be accepted to be an Animal Market as defined under section 3(a) of the Act of 2021 and therefore, it is a market which is being legitimately operated under the law.

13. In the aforesaid conspectus of the facts and the position of law, more particularly the provisions of Act of 2021 as amended by the Amendment Act of 2021, it is discernible that no authority is empowered either under the Act of 2021 or the Amendment Act of 2021 to cause an interference in the operation of a legitimately operated Animal Market by taking recourse to the provisions of the Act of 2021 or the Amendment Act of 2021.

14. But, at the same time we also recognize that under the Act of 2021 as well as the Amendment Act of 2021, the concerned authorities are empowered to ensure that if any transportation of cattle is taking place, which may also be directed towards the legitimately operated Animal Market, such transportation is being done in conformity with the provisions of the Act of 2021 and the Amendment Act of 2021.



15. Accordingly, by taking note of the grievance raised in this writ petition, we restrain the Officer-in-Charge of Baghbor Police Station or any other authority from interfering with the operation of the cattle market of the petitioner inasmuch as, it is a legitimately settled Animal Market which is also recognized under the Act of 2021 as well as Amendment Act of 2021. But at the same time, giving liberty to any authority under the law if they have reasons to exercise their powers of regulating transportation of the cattle, even though such transportation is made to the Animal Market of the petitioner, if the transportation in contravention with any of the provisions of the Act of 2021 or the Amendment Act of 2021. We further provide that in the event any investigating authority under any law is required to conduct such investigation within the premises of the Animal Market of the petitioner, such investigating authority should be allowed to enter the Animal Market for the purpose of the investigation, but such enablement should not be construed to also authorize such investigating authority to arbitrarily interfere with the functioning of the Animal Market without following any due procedure of law.

The writ petition stands disposed of with the above observations.

JUDGE

Comparing Assistant