

GAHC010008822016



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

Case No. : WP(C) 916/2016

1: RANJIT KR. MONDAL and 2 ORS.
S/O- KARTIK CHANDRA MONDAL, R/O VILL.- 2 NO. NAWAPARA, P.O.-
NAWAPARA, P.S.- MANIKPUR, DIST.- BONGAIGAON, PIN- 783392, ASSAM.

2: NIMAI DAS
S/O- GOURANGA DAS
R/O VILL. and P.O.- PATILADOHA
P.S.- MANIKPUR
DIST.- BONGAIGAON
PIN- 783392
ASSAM.

3: SANJAY KR. BISWAS
S/O- SRI JADUMOHAN BISWAS
R/O VILL.- BARBILA
P.O.- MANIKPUR
DIST.- BONGAIGAON

VERSUS

1: THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPTT., DISPUR,
GHY- 6, DIST.- KAMRUP M, ASSAM.

2: THE DIRECTOR
WELFARE OF SCHEDULED CASTES
SARUMOTORIA
GHY- 6
KAMRUP M
ASSAM.

3: THE SUB-DIVISIONAL WELFARE OFFICER

BIJNI
DIST.- BONGAIGAON.

4:HIMMATSINGKA AUTO ENTERPRISE
KUSHAN PLASA
3RD FLOOR
OPP. ASSAM OIL PETROL PUMP
G.S. ROAD
GANESHGURI
GHY- 5
DIST.- KAMRUP M
ASSAM

Advocate for the Petitioner : MR. A M DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.05.2019

Mr. M.Z. Ahmed, learned Senior Counsel, assisted by Mr. A.M. Dutta, learned counsel for the petitioner. Also heard Mr. N. Goswami, learned Govt. advocate appearing for respondents No. 1 to 3. None appears on call for the respondent No. 4, as such, the matter has proceeded ex-parte against the said respondent No.4.

2. The case is projected in this writ petition is that the three petitioners belong to Schedule Caste category persons. The Social Welfare Department came up with a Self-Help Scheme for Unemployed Youths for the year 2010-11. As per the scheme, certain numbers of pickup vans were proposed to be supplied at subsidies rates to eligible young men of SC community in various districts of the State. The names of the three writ petitioners were enlisted and approved on 07.10.2013 for Bijni Circle of Bongaigaon district. The petitioners had paid the margin money of Rs.46,500/- in March, 2014 to the notified agency i.e. respondent No.4, yet despite several years the pickup vans under the said scheme has not

yet been delivered to the petitioners.

3. This writ petition was filed on 08.02.2016. But the respondents No. 1 to 3 i.e. the Commissioner and Secretary to the Govt. of Assam, Welfare Plains Tribes & Backward Classes Department, Assam, the Director, Welfare of Scheduled Castes, Assam and the Sub-Divisional Welfare Officer, Bijni, district Bongaigaon have shown the least concern on receipt of the notice issued by the Court and to file their response, and they have chosen not to file any affidavit-in-opposition in the matter till date.

4. Accordingly, the said three authorities named above shall be personally present before this Court along with all the relevant records relating to the Self-Help Scheme for Unemployed Youths for the year 2010-11. They would also produce documents indicating how many applicants in the State were chosen as beneficiary under this scheme and how much money was allowed by the authorities to be collected by the respondent No.4 i.e. the Himmatsingka Auto Enterprises. They will also produce records indicating how many pickup vans in subsidized rate were actually delivered to the beneficiaries along with the list of such beneficiaries. The three authorities mentioned hereinbefore shall depute a responsible officer well acquainted with the matter to assist the learned Govt. advocate to answer the queries of this Court.

5. It may be mentioned that the learned Govt. advocate has produced instruction received from the Directorate of Welfare of Scheduled Castes, Assam dated 11.09.2018 wherein the learned Govt. advocate has been informed that the government has issued permission for initiating legal action against respondent No. 4 and a perusal of the said document indicates that the government is contemplating to file a civil suit against the respondent No. 4.

6. The State is left to its wisdom to take whatever civil or criminal recourse they want to take. However, the petitioners had paid their respective money under a particular Self-Help

Scheme for Unemployed Youths for the year 2010-11 and the money was paid to the agency nominated by the respondents, as such, the State cannot escape the liability of refunding such amount to the petitioners. Accordingly, the pendency of this writ petition shall not be a bar for the State of Assam including (i) the Commissioner and Secretary to the Govt. of Assam, Welfare Plains Tribes & Backward Classes Department, Assam, (ii) the Director, Welfare of Scheduled Castes, Assam, and (iii) the Sub-Divisional Welfare Officer, Bijni, District Bongaigaon to refund the booking amount and/ or margin money to the petitioners and such payment would not prejudice the State to initiate any action that may be contemplated against the respondent No.4.

7. A copy of the order may be provided to Mr. N. Goswami, learned Govt. advocate so as to secure the personal appearance of the respondents No.1, 2 and 3 named hereinbefore on the next date fixed. It is further made clear that if the respondents No. 1, 2 and 3 fail to appear in person, the Court may pass appropriate orders to compel compliance.

8. Instruction produced by the learned Govt. advocate is returned.

9. List the matter on **24.07.2019**.

JUDGE

Comparing Assistant