

GAHC010031352026



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

Case No. : WP(C)/871/2026

GITARTHA BHUYAN AND ANR
S/O- BAIKUNTHA BHUYAN, VILL- PUB BORAGAON, P.O. AND P.S.-
GARCHUK, DIST- KAMRUP METRO, ASSAM, PIN-781035.

2: ABU BAKKAR SIDDIQUE MOLLAH
S/O- JOYEN UDDIN MOLLAH
VILL- KATAHBARI
P.O P.S.- GARCHUK
DIST- KAMRUP METRO
ASSAM
PIN-781035

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM, JANATA BHAWAN ASSAM SECRETARIAT COMPLEX, DISPUR,
GUWAHATI-781006.

2: COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE DISASTER MANAGEMENT DEPARTMENT
JANATA BHAWAN
ASSAM SECRETARIAT COMPLEX
DISPUR
GUWAHATI-781006.

3: DISTRICT COMMISSIONER
KAMRUP METRO
ASSAM.

4: COMMISSIONER OF POLICE
COMMISSIONARATE OF POLICE
KHANAPARA
GUWAHATI

ASSAM

5:CIRCLE OFFICER

GUWAHATI REVENUE CIRCLE
GUWAHATI
ASSAM

6:OFFICER-IN-CHARGE
GARCHUK POLICE STATION
GUWAHATI
ASSAM

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocates for the petitioner(s) : Mr. AR Bhuyan

Advocates for the respondent(s) : Mr. BJ Talukdar
Senior Advocate
Mr. PK Medhi
for the State respondents
Ms. N Bordoloi
for Revenue Deptt.

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **16.02.2026**

Whether the Pronouncement is of the : NA
Operative Part of the Judgment

Whether the Full Judgment has been : Yes
Pronounced

JUDGMENT & ORDER(ORAL)

Heard Mr. A. R. Bhuyan, the learned counsel appearing on behalf of the petitioners and Mr. BJ Talukdar, the learned Senior Counsel assisted by Mr. PK Medhi, the learned Government Advocate appearing on behalf of the Respondent Nos. 1, 3, 4, 5 and 6. I have also heard Ms. N Bordoloi, the learned Standing Counsel, Revenue and Disaster Management Department, who appears on behalf of the respondent No.2.

2. Both the writ petitioners have joined together to file the instant writ petition complaining about the impugned notice dated 04.02.2026 issued by the respondent No.5 which has been enclosed to the writ petition as Anenxure-10.

3. The petitioner No.1 is serving as the Principal and the petitioner No.2 is serving as the President of W.G. High School, Upper Primary Section, Boragaon Branch respectively and the said school is situated at Paschim Boragaon in the District of Kamrup (M) under Dag No.1699/1702.

4. The petitioners purchased the land in question and constructed the School above-named over the said Dag No. 1699/1702 through land sale agreement entered into with original pattadars and the same has been under control and care of the petitioners for several years. It is, therefore, the case of the petitioners that it is not a case that the petitioners are encroachers, but they are in settled possession upon permissions being granted by the original pattadars vide Sale Deed which is enclosed as Annexure-1 to the writ petition. At this stage, it is pertinent to observe that a perusal of Annexure-1 reveals that the Sale Deed is an unregistered document.

5. Mr. AR Bhuyan, the learned counsel for the petitioners submitted that the

respondent No.5 by way of notice dated 04.02.2026 which is enclosed as Annexure-10 to the writ petition had directed the School of the Petitioners to vacate the land within 15 days without carrying out any adjudication as regards the rights of the School of the Petitioners *qua* the land under its possession. The learned counsel further submitted that on one hand, the School of the Petitioners has been asked to vacate within 15 days and on the other hand, the Principal of the School in question has been also asked to appear for hearing on the 14th day of the notice i.e. on 18.02.2026 which means that even if any representation is submitted, it would not be a meaningful exercise. He, therefore, submitted that this is a fit case where the impugned notice is required to be set aside and quashed.

6. *Per contra*, Ms. N Bordoloi, the learned Standing counsel appearing on behalf of the Revenue Department submitted that the land in question being Government land, no person has any right to remain in occupation of such land, unless allotted and settled as per the provisions of the ***Assam Land and Revenue Regulation, 1886*** read with the *Settlement Rules*. The learned Standing Counsel further submitted that instead of setting aside the impugned notice dated 04.02.2026, the notice be construed as Show Cause Notices upon the petitioners and a period of 15 days can be granted to the petitioners from today for submitting their respective representation(s) along with necessary evidence to substantiate their claims to remain over the said land under their occupation. Ms. N Bordoloi, the learned Standing Counsel further submitted that on the basis of the representation to be submitted by the petitioners along with the documents, the District Commissioner, Kamrup (Metro) or the Co-District Commissioner may be directed to look into such representation and thereupon pass Speaking Order thereon.

7. I have also heard Mr. BJ Talukdar, the learned Senior Counsel appearing on behalf of the Respondent Nos. 1, 3, 4, 5 and 6 who also supports the submission of Ms. N Bordoloi, the learned Standing counsel appearing on behalf of the Revenue Department.

8. This Court has heard the learned counsels appearing on behalf of the parties and has given anxious consideration to their respective submissions.

9. The materials on record have been duly taken note of.

10. A perusal of the provisions of Assam Land and Revenue Regulation, 1886 as well as the Settlement Rules clearly show that no person can remain in occupation of Government lands without permission or allotment granted by the competent authority.

11. This Court also finds it pertinent to observe that the *Assam Land Policy, 2019* confers certain rights upon those persons who are in Government lands to seek settlement. This aspect has been duly taken note of by the learned Division Bench of this Court in the case of ***Md. Salak Uddin Vs. State of Assam and Others*** reported in ***(2024) SCC Online Gau 921***. It is very pertinent to observe that in the said judgment, the learned Division Bench of this Court observed that no matter what, a notice is required before initiating any procedure for eviction so that the principles of natural justice which forms a facet of Article 21 of the Constitution is not violated.

12. This Court now finds it also relevant to take note of the impugned notice which has been issued to the School of the Petitioners which is enclosed as Annexure-10 to the writ petition. The same is reproduced herein under:

**"OFFICE OF THE CIRCLE OFFICER ::: GUWAHATI REVENUE CIRCLE
(KAMRUP METROPOLITAN DISTRICT)"**

No. G.C.49/2015/851-925

Date : 04/02/2026

To

**The Principal,
W.G. High School
Govt. Dag No.1699/1702
Jalukbari Mouza**

Whereas you have been found to be in unauthorized possession of a plot of land under Dag No. 1699, 1702 which is Government Khas land, without any lawful authority.

And whereas, as per the order of the District Commissioner vide Order No.KRC(M)373/2023/Misc/39 dated: 03/02/2026, any unauthorized occupant of Government land is required to vacate the land within 15 days from the date of publication of this notice under Section 18(3) of the Assam Land and Revenue Regulation, 1886.

And whereas it has also been observed that you have erected certain structures on the said land in the form of shops/school/houses/tin-shed/boundary fencing, which are also required to be removed within the stipulated time mentioned above.

*Therefore, you are hereby directed to vacate the Government land under your unauthorized possession and remove all structures standing thereon on or before **19/02/2026**.*

*However, if you wish to make any representation in this regard, you may appear before the undersigned on **18/02/2026 at 11:00 A.M.***

*Circle Officer
Guwahati Revenue Circle
Kamrup (M) District"*

13. A perusal of the said notice reveals that on one hand, the School of the Petitioners has been asked to vacate within 15 days from the date of publication of the notice and on the other hand, the Principal of the Petitioners' School has also been asked to submit representation and appear before the Respondent No.5 on 18.02.2026 at 11 AM.

14. The contents of the said notice quoted hereinabove does not inspire the confidence of this Court taking into consideration that on one hand, the respondent No.5 had asked the School of the Petitioners to vacate the land under their occupation and on the other hand has asked the Principal of the School in question to appear one day prior to the date fixed for the petitioners to vacate the land. It appears that the manner in which the respondent No.5 proposes to deal with the matter is too mechanical. Under such circumstances, such course of action cannot be permitted as per the settled principles of law.

Be that as it may, as the Principal of the School in question admittedly had received the impugned notice which has been enclosed as Annexure-10 to the writ petition, it would be in the interest of justice that instead of setting aside the notice dated 04.02.2026, the said notice be construed as Show Cause Notice.

15. The petitioners can be granted the liberty to submit their representations treating the said notice as Show Cause Notice and thereby providing the necessary evidences which would show that the School of the Petitioners has a right of settlement over the land in terms with the *Assam Land Policy, 2019* as well as also that the petitioners' rights over the land have matured by operation of law.

16. This Court is also of the opinion that when the petitioners are given the opportunity to submit their representation along with necessary evidences, an opportunity of personal hearing would also be required to be given to the petitioners so that they are in a position to explain their case in relation to evidence adduced. This Court duly takes note of a recent judgment passed by the Supreme Court in the case of ***Abdul Khalek and Others Vs. State of Assam and Others*** dated 10.02.2026 wherein the Supreme Court even in

respect to reserved forest land directed that pursuant to orders passed, if the decision is not favourable, a further period of 15 days is required to be given so that the aggrieved parties can take recourse to the provisions of law.

17. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The notice dated 04.02.2026 which has been issued to the School of the Petitioners enclosed as Annexure-10 to the writ petition shall be treated as Show Cause Notice issued to the School of the Petitioners.

(ii) The petitioners having received the notice are given the liberty to submit their representation within 20 days from today.

(iii) This Court further directs that such representations be submitted to the District Commissioner, Kamrup (Metro).

(iv) The District Commissioner, Kamrup (Metro) or the Co-District Commissioner, within whose jurisdiction the land in question is situated shall decide such representation by affording opportunity of personal hearing to the petitioners who submit representation in pursuance to the instant judgment passed by this Court.

(v) The District Commissioner, Kamrup (Metro) or Co-District Commissioner shall decide the representations by taking note of the provisions of the ***Assam Land and Revenue Regulation, 1886***, the *Settlement Rules* as well as the *Assam Land Policy, 2019* without being influenced by the contents of Paragraph Nos. 1 and 2 of the impugned notice.

(vi) It is further observed and directed that District Commissioner, Kamrup (Metro) or the Co-District Commissioner shall pass Speaking Order against the claim made by the petitioners.

(vii) It is further observed that in the circumstance, the Speaking Order passed is against the claim of the petitioners, no steps for eviction be carried out for a period of 15 days from service of such Speaking Order upon the petitioners. In that regard, it shall be open to the District Commissioner, Kamrup (Metro) or the Co-District Commissioner to fix a date for passing the Speaking Order on the date of the personal hearing or such date as per its convenience.

(viii) It is observed that till the aforesaid exercise is being carried out as directed hereinabove, no steps be taken for eviction of the petitioners.

JUDGE

Comparing Assistant