

GAHC010039522025



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

**Case No. : WP(C)/1057/2025**

NAGARJHAR CHILDRENS CLUB AND LIBRARY  
A REGISTERED SOCIETY REPRESENTED BY ITS  
SECRETARY  
SHARFUL ALOM, AGED ABOUT 48 YEARS  
SON OF LATE SOHRAB ALI  
RESIDENT OF VILLAGE- NAGARJHAR, P.O. AND P.S.-  
HOWLY, DISTRICT - BARPETA, ASSAM. PIN-  
781316

2: ANISUR RAHMAN  
SON OF LATE MAHMUDUR RAHAMN  
RESIDENT OF VILLAGE- NAGARJHAR VILLAGE

P.O. AND P.S.- HOWLY  
DISTRICT- BARPETA  
ASSAM.  
PIN-781316

3: HAFIZUR RAHMAN  
SON OF LATE ALI AJGAR  
RESIDENT OF VILLAGE- JAIPUR  
P.O. AND P.S.-  
HOWLY  
DISTRICT- BARPETA  
ASSAM. PIN-78131

VERSUS

THE STATE OF ASSAM AND ORS  
REPRESENTED BY THE  
COMMISSIONER AND SECRETARY OF THE  
GOVERNMENT OF ASSAM, SECONDARY EDUCATION  
DEPARTMENT, JANATA BHAWAN, DISPUR, ASSAM,  
PIN- 781006

2:THE SECRETARY OF THE GOVERNMENT OF ASSAM  
SPORTS AND YOUTH WELFARE DEPARTMENT  
JANATA  
BHAWAN  
DISPUR  
ASSAM. PIN- 781006

3:THE DIRECTOR  
SECONDARY EDUCATION  
ASSAM

KAHILIPARA  
GUWAHATI- 781019

4:THE DIRECTOR  
SPORTS AND YOUTH WELFARE

RUDRA SINGH SPORTS COMPLEX  
SUPER MARKET

DISPUR  
ASSAM  
GUWAHATI-781006

5:THE CHIEF ENGINEER  
PUBLIC WORKS  
DEPARTMENT  
BUILDING  
CHANDMARI  
GUWAHATI-  
781003

6:THE CHIEF ENGINEER  
PUBLIC WORKS  
DEPARTMENT  
BUILDING  
CHANDMARI  
GUWAHATI-  
781003

7:THE ADDITIONAL DISTRICT COMMISSIONER (EDUCATION)

P.O. AND P.S.- BARPETA  
DIST.-  
BARPETA  
ASSAM. PIN-781301

8:THE INSPECTOR OF SCHOOLS  
BARPETA  
ASSAM

P.O. AND P.S.- BARPETA  
DIST.- BARPETA  
ASSAM.  
PIN-781301

9:THE DISTRICT SPORTS OFFICER  
GANDHINAGAR

BARPETA  
P.O. AND P.S.- BARPETA  
DIST.-  
BARPETA  
ASSAM. PIN-781301

10:THE PRINCIPAL  
HILAPAKARI HIGHER SECONDARY  
SCHOOL  
JAIPUR  
HOWLY  
BARPETA  
P.O. AND P.S.-  
BARPETA  
DIST  
- BARPETA  
ASSAM. PIN-781316

11:THE PRESIDENT  
SCHOOL MANAGEMENT AND  
DEVELOPMENT COMMITTEE  
HILAPAKARI HIGHER  
SECONDARY SCHOOL  
JAYPUR  
HOWLY  
BARPETA

ASSAM  
PIN-78131

**Advocate for the Petitioner** : MR. N J DUTTA, MR A BASUMATARY,M RAHMAN,MR N AHMED

**Advocate for the Respondent** : GA, ASSAM, SC, SEC. EDU.,SC, PWD

**BEFORE  
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**28.02.2025**

Heard Mr. NJ Dutta, learned counsel for the petitioners.

The petitioners are aggrieved by the proposal to construct a new school building on part of the land that was previously used for various activities, including sports, by the local residents of Hilapakuri in the district of Barpeta. This open space has been used for such activities several years since the past. This place is adjacent to the existing school, namely, Hilapakri Higher Secondary School. By opposing such constructions, the petitioners had earlier approached this Court by filing PIL being PIL No.73/2024 and by order dated 02.12.20224 the Division Bench of this Court disposed of the said PIL by permitting the petitioners to move a fresh representation before the District Commissioner, Barpeta raising their grievance regarding the constructions of the new building over the said land, within a period of 10 (ten) days. The observation made by the learned Division Bench in PIL No.73/2024 by order dated 02.12.20224 is extracted below:

”By way of this PIL petition, the petitioners have approached this Court challenging the action of the State Government of constructing a permanent structure RCC building (G+1) in the premises of Hilapakuri Higher Secondary School in the revenue village of Jaypur, Howly, District- Barpeta, Assam.

The petitioners are claiming that the land, where the respondents have proposed to raise construction of a G+1 RCC building, is being used as play ground since last more than 50 years. It is also contended that enough alternate land is available with the respondents to construct the new building but despite the said fact they are bent upon to raise construction of the new building on the land being used as play ground since long.

On a query, learned counsel for the petitioners has failed to satisfy this Court that the land, on which the new RCC building is proposed to be constructed, is earmarked or recorded as play ground in the government records.

It is contended by the learned counsel for the petitioners that the play ground was developed by the concerned local authority with the fund received under MNREGA and the Government of Assam also organised some sports events at the said play ground earlier.

Having heard the learned counsel for the petitioners and after going through the material available on record, this Court is of the view that if the respondents are proposing to raise some new construction over the plot of land in question with the intention to improve the infrastructure, the same cannot be interfered with without there being any proof that the land on which the new building is proposed to be constructed is reserved for some other purposes, such as, play ground or park etc.

Be that as it may, it is within the domain of the administrative authorities to raise infrastructure over the government land. However, at the same time, if the land is being used as play ground or for other social activities since long, the concern of the residents has also to be taken into consideration.

Taking into consideration the above facts and circumstances of the case, we deem it appropriate to allow the petitioners to move a fresh representation to the District Commissioner, Barpeta raising their grievance regarding the construction of the new building over the land, which is stated to be used as play ground, within a period of 10 (ten) days from today.

The District Commissioner, Barpeta, after receiving the said representation and after inviting the views from the respondent Education Department, who has proposed to construct the new building, shall consider and decide the representation of the petitioners, strictly in accordance with law, expeditiously, preferably within a period of four weeks thereafter.

With these observations, this PIL petition is disposed of.”

Pursuant to the liberty granted in the PIL a representation was filed before

the District Commissioner, Barpeta. The District Commissioner, Barpeta upon examining the claims rejected the prayer made by the writ petitioners by issuing a speaking order dated 24.01.2025. The District Commissioner, Barpeta rejected the claim of the petitioners on the following grounds:

1. Land in question is earmarked as the land of Hilapakuri Higher Secondary School in revenue documents.
2. The ground is used by the school authority for student's outdoor activities and also sometimes by the nearby youth after permission from the school authority.
3. The school needs new infrastructure to accommodate ever increasing students and to house newer initiatives of the Government as Digital class room, science laboratory, Library etc.
4. After constructions of the proposed building as per the drawing of PWD (Building) Department, there will be enough space for the children for their outdoor activities which can also be used by the local youth with permission from the school authority.

Being aggrieved, the present writ petition has been filed. Learned counsel for the petitioners submits that the observations of the Deputy Commissioner at Serial No.1 is contrary to the revenue records, an extract of which is enclosed to

the writ petition at Page no.129-130. The said extract of the revenue record reflects that the land in question has been shown to be used as "*Ball Playing Field*". Learned counsel for the petitioners submits that this revenue record is available in the Office of the District Commissioner, Barpeta and therefore, the District Commissioner, Barpeta could not have rejected the claims of the petitioners by observing that the land has been earmarked for the Hilapakuri Higher Secondary School in the relevant documents.

Learned counsel for the respondents submits that the instructions are necessary at this stage.

Accordingly, issue Notice, returnable 3 (three) weeks.

Mr. R. Mazumdar, learned Standing Counsel, Secondary Education Department appears for the respondent nos. 1, 3 & 8 and Mr. J. Handique, learned Government Advocate, Assam appears for the respondents no. 2, 4, 6, 7 & 9 and Mr. P Nayak, learned Standing Counsel, PWD for the respondent no.5

Since the respondent nos. 1 to 9 are represented by their respective counsel, Notices are waived. However, extra copies be furnished to them within 1 (one) week from today.

Steps on the respondent nos. 10 & 11 be taken by registered post with A/D within 1 (one) week from today. *Dasti* service is also permitted which will

be routed through the Registry of this Court.

If steps are taken by way of *Dasti* service then affidavit of compliance shall be filed within 1 (one) week after the steps are effected.

List the matter on 24.03.2025.

Parties shall maintain *status quo* till the next date fixed.

**JUDGE**

**Comparing Assistant**