

GAHC010160942023



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

Case No. : WP(C)/4260/2023

DHING TOWN JAME MASJID AND EIDGAH COMMITTEE
AT DHING TOWN, WARD NO. 4, NAGAON, ASSAM.
REPRESENTED BY THE PRESIDENT ZAKIR HUSSAIN, AGED ABOUT 51
YEARS, SON OF LATE AIDUR RAHMAN, RESIDENT OF VILLAGE- SARU
RADHA ATI,
P.O.- SOLOGURI, P.S.- DHING, DISTRICT- NAGAON, ASSAM. PIN- 782123.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
MUNICIPAL ADMINISTRATION DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
NAGAON
P.O.
P.S. AND DISTRICT- NAGAON

ASSAM
PIN- 782001.

4:DHING MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
DHING
P.O. AND P.S.- DHING

DISTRICT- NAGAON

ASSAM
PIN- 782123.

5:THE EXECUTIVE OFFICER
DHING MUNICIPAL BOARD
P.O. AND P.S.- DHING
DISTRICT- NAGAON
ASSAM
PIN- 782123

Advocate for the Petitioner : MR. N J DUTTA, D HUSSAIN,MR A BASUMATARY,MR. M M ZAMAN,MR N AHMED

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

16.03.2026

Heard Shri N. Ahmed, learned counsel for the petitioner. Also heard Shri B.J. Talukdar, learned Senior Counsel assisted by Shri P.K. Medhi, learned counsel appearing for the Govt. of Assam.

2. The instant writ petition has been filed with the following prayer:

“In the premises aforesaid it is most respectfully prayed that this Hon'ble Court may graciously be pleased to admit this petition, call for the records and issue Rule, calling upon the Respondents to show cause as to why a writ in the nature of certiorari should not be issued setting aside the impugned Memo No DMB242/2022-23/98-A dated 20/04/2023 issued by the Respondent No.5 (Annexure No.5) issued by the Respondent No.5 and to pass such order/orders as your Lordships may be deem fit and proper.

-AND-

In the interim it is prayed before your Lordships to stay the operation of the Memo No DMB242/2022-23/98-A dated 20/04/2023 issued by the Respondent No.5 asking for removal of the construction in the interest of justice.”

3. As per the facts projected, the Dhing Town Jame Masjid & Eidgah Committee (Committee) possesses a plot of land measuring 2 kathas 14 lechas at Dhing Town Kissam under Dag No. 564 of Batadrava Mouza, Nagaon. The Committee had made an application for construction of an RCC building before the Dhing Municipal Board (Board) and it is contended that vide an order dated 22.12.2021, permission was accorded whereafter, the construction was made. However, the Board had thereafter issued a communication dated 03.05.2023 to the Committee to produce the relevant land documents. The documents were accordingly submitted along with a reply. However, it is alleged that without granting any opportunity, the impugned order dated 20.04.2023 has been issued directing removal of the construction. Accordingly, the instant writ petition has been filed.

4. Shri Ahmed, learned counsel for the petitioner has submitted that the permission for construction having been accorded by the Board, the same indicates that all necessary verification was done over the plot of land in question. He accordingly submits that the impugned action is unreasonable, arbitrary and not sustainable in law.

5. *Per contra*, Shri Talukdar, learned State Counsel has submitted that the impugned action is supported by valid reasons. He has submitted that the land in question is over the Dag No. 564 which is Grazing Reserve. In this connection, the learned State Counsel has drawn the attention of this Court to the affidavit-in-

opposition filed on 19.09.2025 wherein, it has been categorically stated that the land in question covered by Dag No. 564 of Dhing Town Kissam of BatadravaMouza is grazing land. Though this affidavit-in-opposition containing such important facts was filed on 19.09.2025, no rebuttal affidavit has been filed by the petitioner. The aspect of land under VGR/PGR has been specifically dealt with by the Hon'ble Supreme Court in the case of **Jagpal Singh & Ors. Vs. State of Punjab & Ors.**, reported in **(2011) 11 SCC 396** wherein, the following observations have been made:

“23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/poramboke/shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show-cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularising the illegal possession. Regularisation should only be permitted in exceptional cases e.g. where lease has been granted under some government notification to landless labourers or members of the Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”

6. This Court is of the opinion that an order of grant of permission to make constructions cannot be determinative of the status of the land.

7. Shri Talukdar, learned State Counsel has also pointed out that the aforesaid

aspect that the land is VGR is admitted and in this connection, he has referred to application dated 31.05.2023 issued by the petitioners to the Executive Officer, Dhing Municipal Board wherein, it has been admitted that the construction was established over the Government VGR land vide Dag No. 564, the relevant part of which is extracted hereinbelow:

“That the said Jame Masjid Was established over the govt VGR land vide dag no 564 of Dhing Town kism under BatadravaMouja and the Eidgah was established in Dag no 567 and later on the then Government of Assam, Revenue Department was pleased to Deserved the VGR land and allotted 2 kathas and 14 lessas of plot of land to Dhing Town Jame Masjid vide NRS / 197/91/14 dtd 6/7/1993 and also pleased to allot 1 Bigha of land to Dhinganchalik ME Madrassa and Eidgah vide memo no RGS 180/91 /34 - A dated 17/8/1992 and and since than the Masjid Committee constructed temporary building to offer prayers.”

8. In that view of the matter, this Court is of the opinion that in the context of the seriousness of the aspect of maintaining VGR/PGR land, as directed by the Hon’ble Supreme Court in the case of **Jagpal Singh** (*supra*), there is no scope of this Court to grant any relief to the petitioner.

9. Accordingly, the writ petition stands dismissed.

10. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant