GAHC010218322025

undefined

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

Case No. : WP(C)/5704/2025

MD. ZAHID ALAM
S/O- HAJI MD. MAQBUL
R/O- STATION ROAD, TINSUKIA, POLICE STATION- TINSUKIA , DISTRICT-TINSUKIA ,ASSAM

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE DISTRICT MAGISTRATE
TINSUKIA

3:THE CHAIRMAN
TINSUKIA MUNICIPAL BOARD
TINSUKIA
ASSAM

4:THE SECRETARY
TO THE GOVT. OF ASSAM REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI-781006

For the Petitioner(s) : Mr. H. Rahman, Sr. Advocate
: Mr. B. J. Das, Advocate

For the Respondent(s) : Mr. B. J. Talukdar, Sr. Advocate
: Mr. P. K. Medhi, Advocate
: Mr. J. Handique, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 12.03.2026

Heard Mr. H. Rahman, the learned Senior counsel assisted by Mr. B. J. Das, the learned counsel appearing on behalf of the Petitioner and Mr. B. J. Talukdar, the learned Senior Advocate assisted by Mr. P. K. Medhi, the learned counsel appearing on behalf of the District Administration. I have also heard Mr. J. Handique, the learned Standing Counsel appearing on behalf of the Revenue Board.

2. This Court has duly perused the provisions of the Assam Ancient Monuments and Records Act, 1959 (for short 'the Act of 1959') as well as the Assam Ancient Monuments and Records Rules, 1964 (for short 'the Rules of 1964').

3. From the said Act of 1959 and Rules of 1964 read with notification dated 20.08.2018, it appears that the Na-Pukhuri situated at Tinsukia Town of Tinsukia Mouza under Tinsukia Revenue Circle in the District of Tinsukia on land measuring 73 Bighas 2 Kathas 15 Lechas covered by Dag Nos. 4953, 4954, 4943, 4944, 4948, 4949, 4950, 4952, 4951, 4946 and 4947 has been declared as a protected monument within the meaning of

the said Act of 1959.

4. This Court further finds it relevant to take note of that Section 17 of the said Act of 1959 stipulates that public shall have a right of access to any protected monument as has been prescribed in the Rules made under the said Act of 1959. This Court has also perused the Rules of 1964 wherein at Rule 6 of the Rules of 1964, there is a restriction of public entry into a monument during repairs.

5. A further perusal of Rule 11 of the Rules of 1964 stipulates the rights of public of access to monuments. Taking into account that there is no agreement between the owner and the State Government in terms with the monument in question, Rule 11(2) of the Rules of 1964 shall be applicable which stipulates that right of public of access to monuments has to be laid down by an order of the Superintendent from time to time.

6. This Court finds it also relevant to take note of Rule 14 of the Rules of 1964 which prohibits holding of meeting, reception party, conference or entertainment except under and in accordance with the permission in writing granted by the State Government or any authority empowered by it. Rule 15 of the Rules of 1964 stipulates prohibition of certain acts within the monuments.

7. This Court has duly taken note of that as it is a case where vide a notification dated 20.08.2018, the Na-Pukhuri situated at Tinsukia Town have been declared to be a protected monument, no direction for the present can be issued thereby permitting the Petitioner to perform Namaz on the occasion of Id-Ul-Fitre to be celebrated in the month of March, 2026. However, it is the opinion of this Court that the Petitioner is required to implead either the Superintendent of Archaeology or the Officer so authorized by the State Government in respect to Na-Pukhuri so that this Court would be in a position to take note of as to whether any order has been passed in terms with Rule 11(2) of the Rules of 1964.

8. Mr. H. Rahman, the learned Senior counsel submits that necessary application in that regard would be filed.

9. List this matter again on 07.04.2026.

JUDGE

Comparing Assistant