

GAHC040012932024



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

Case No. : WP(C)/483/2024

Tasing Mosu
Age: 36
Occupation :
Address: Son of Late Tamin Mosu
resident of DST Colony
Daporijo
PO and PS Daporijo
Upper Subansiri District
Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
Age: 0
Occupation :
Address: represented by the Chief Secretary
Govt of Arunachal Pradesh
Itanagar.
2: The Deputy Commissioner
Age: 0
Occupation :
Address: Upper Subansiri District
PO and PS Daporijo
Arunachal Pradesh.

3: The Additional Deputy Commissioner cum Estate Officer
Age: 0
Occupation :
Address: Upper Subansiri District
PO and PS Daporijo
Arunachal Pradesh.

Advocate for : Duge Soki

Advocate for : GA (AP) appearing for The State of AP and 2 Ors: Advocate ,
 , appearing for 2,
 3, respectively.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 05.11.2024

Heard Mr. D. Soki, learned counsel for the petitioner. Also heard Ms. G. Ete, learned Additional Senior Government Advocate for the State respondents.

This is an application under Article 226 of the Constitution of India challenging the legality and validity of the order passed by the Deputy Commissioner, Daporijo vide No. DRJ/JUD-02/2024, dated 07.10.2024, whereby the Appeal preferred by the petitioner was disposed.

Issue notice to the respondents, returnable by 2 (two) weeks.

As Ms. G. Ete, learned Additional Senior Government Advocate, has already appeared and accepted notices on behalf of all the State respondents, no formal notice is required to be issued to the respondents. However, she shall be served with requisite extra-copy of the petition during the course of the day.

Mr. Soki, learned counsel for the petitioner, submitted that vide the impugned order dated 07.10.2024, the Deputy Commissioner, Daporijo disposed

of the Appeal preferred by the present petitioner without giving any opportunity of hearing. Further he submitted that prior to filing of the connected writ petition, being WP(C) No. 433(AP)/2024, before the Appellate Authority, i.e. the Deputy Commissioner, the petitioner preferred an Appeal before the Deputy Commissioner on 17.09.2024, but the same was not accepted by the Deputy Commissioner and it was returned to the Estate Officer. Thereafter the petitioner approached this Court by filing the said connected WP(C) No. 433(AP)/2024, wherein this Court, vide order dated 25.09.2024, directed for maintaining *status quo* and granted liberty to the Deputy Commissioner to dispose of the Appeal as per the provision of Section 12 of the Arunachal Pradesh Public Premises (Prevention of Unauthorized Occupants) Act, 2003. Thereafter the Deputy Commissioner fixed the hearing on 07.10.2024 and the petitioner also accordingly appeared before the Deputy Commissioner on 07.10.2024, but the Deputy Commissioner directed the petitioner to file a fresh Appeal as the earlier Appeal was already returned to the petitioner. Accordingly the petitioner filed a fresh Appeal before the Deputy Commissioner on 16.10.2024. But the Deputy Commissioner, in a very mechanical manner, passed a back dated order on 07.10.2024 without even hearing the petitioner. Accordingly, Mr. Soki prayed that the records may be called for to ascertain as to whether the Appeal is still pending before the Deputy Commissioner and/or as to whether the order dated 07.10.2024 was passed without there being any Appeal.

Ms. G. Ete, learned Additional Senior Government Advocate, submitted in this regard that from the order passed by the Deputy Commissioner, it is very much clear that the present petitioner was already present before the Deputy Commissioner at the time of hearing and passing the order on 07.10.2024 and

considering his unauthorized construction over the government allotted quarter, his appeal was accordingly disposed of by the Deputy Commissioner.

Considering the submissions made by the learned counsels for both sides, I find it appropriate to call for the records from the Office of the Deputy Commissioner, Daporijo to ascertain as to whether the order dated 07.10.2024 has been passed without there being any Appeal.

Accordingly, Ms. Ete, learned Additional Senior Government Advocate, is hereby directed to produce all the relevant records before this Court on the next date fixed.

Till then, both the parties are hereby directed to maintain *status quo* over the property in question in terms of the order dated 25.09.2024, passed by this Court in WP(C) No. 433(AP)/2024.

List the matter after 2 (two) weeks along with WP(C) No. 433(AP)/2024.

JUDGE

Comparing Assistant