

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 MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 12/02/2025

Heard Mr. D. Soki, learned counsel for the writ petitioner. Also heard Ms. G. Ete, learned Additional Senior Government Advocate, Arunachal Pradesh, appearing for the official respondents.

In this writ petition, the order dated 07/10/2024 passed by the Deputy Commissioner, Upper Subansiri District, Daporijo, has been put under challenge, primarily on the ground that the petitioner was not given proper opportunity of being heard before disposing of the appeal filed against the impugned notice dated 21/08/2024 issued by the Addl. Deputy Commissioner-cum-Estate Officer.

Taking note of the grievance of the petitioner, this Court had passed order dated 05/11/2024 directing both the parties to maintain *status quo* over the property, in question.

Today, when the matter is called up, Ms. G. Ete, learned Government Advocate, AP, appearing for the respondents, has produced the departmental records to submit that the appeal was disposed of after giving personal hearing to the petitioner. However, there is nothing in the record to substantiate such stand of the learned Government Advocate, AP. Rather, from the record it appears that no proceeding of hearing of the appeal was at all recorded by the learned Deputy Commissioner, Upper Subansiri District.

It may be correct to say that since the petitioner is an occupant of Government quarter, he would not have any indefeasible right, either to dismantle any part of the quarter or to renovate the same or even continue to occupy the same without the permission of the department concerned. To such extent, no right can be recognized by the Court in favour of the petitioner to indefinitely continue to occupy the quarter either in the existing form or subsequent to its dismantling, as the case may be. However, it is significant to note herein that once the Court has passed an order directing the Deputy

Commissioner to dispose of the appeal after giving an opportunity of being heard to the petitioner, the said direction ought to have been followed in letter and spirit, failing which, the action of the authorities would be exposed to being struck down by the Court on the ground of being arbitrary and illegal.

As has been noted herein above, the record produced by the learned Government Advocate, A.P, does indicate that hearing was fixed on 07/10/2024 by serving notice dated 01/10/2024 upon the petitioner. However, there is nothing on record to even remotely show that the petitioner was at all given a proper opportunity of being heard in the matter.

It is the pleaded case of the writ petitioner that he was not given any opportunity of being heard before the impugned order was passed, which according to Mr. Soki, was issued illegally, that too on a back date.

Such being the situation, this Court is of the opinion that in the absence of an affidavit filed by the respondents clarifying their stand, the matter cannot proceed further.

As such, issue notice of motion returnable on 28/02/2025, so as to enable the learned Government Advocate, AP to file affidavit dispelling the allegations made in the writ petition.

Since the respondents are already represented by the learned Addl. Sr. Government Advocate, Arunachal Pradesh, no further notice is required to be sent in this case.

List this case again on 28/02/2025, as a fixed item.

Interim order passed earlier to continue till the next date fixed.

JUDGE

Comparing Assistant