

GAHC010034182016



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

Case No. : Crl.Pet./1040/2016

PUTUL BORUAH
S/O LT. LORAN BORUAH R/O VILL- CHATIACHUK, P.O. and P.S. GOHPUR,
DIST. BISWANATH, ASSAM.

VERSUS

STATE OF ASSAM

Advocate for the Petitioner : MR.R KALITA, MS.S BHUYAN,MR.R SALOI

Advocate for the Respondent : PP, ASSAM, ,

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

19-08-2024

Heard Mr. B D Konwar, learned Senior counsel assisted by Ms. M Zomonpi, learned counsel for the petitioner and Mr. K Baishya, learned Additional Public Prosecutor, Assam for the sole respondent.

2. In this criminal petition under Section 482 CrPC, the petitioner, namely, Putul Boruah, son of Late Loram Boruah has prayed for quashing and setting aside the complaint dated 11.08.2016 relating to the FIR pertaining to Gohpur Police Station Case No. 224/2016 registered under

Sections 468/420 IPC corresponding to G.R. Case No. 253/2016 pending before the Court of the learned Sub-Divisional Judicial Magistrate (M), Gohpur.

3. Brief facts of the case is that on the basis of a letter of the local MLA of 78 Gohpur Legislative Assembly Constituency dated 10.07.2016 written to the Sub-Divisional Officer (Civil), Gohpur for verification of the OBC certificate issued in favour of the petitioner as to whether he belongs to OBC category or not, requesting the said authority to take necessary action after such verification. Accepting the said complaint of the local MLA of 78 Gohpur LAC dated 10.07.2016, the Additional Deputy Commissioner, Gohpur Sub-Division on 12.07.2016 wrote to the Circle Officer, Gohpur Revenue Circle to make an enquiry as to whether the petitioner belongs to Chutia community or not.

4. After verification, the Circle Officer, Gohpur Revenue Circle on 19.07.2016 submitted its report/opinion to the SDO (Civil), Gohpur Sub-Division stating that the petitioner belongs to sub-caste "*Keot*" and as such, he does not belong to Other Backward Communities (OBC) under sub-caste "*Chutia*".

5. After the said report of the Circle Officer, Gohpur Revenue Circle dated 19.07.2016, the Additional Deputy Commissioner (ADC), Gohpur Sub-Division on 11.08.2016 wrote to the Superintendent of Police (SP), District-Biswanath that to obtain a license for a bonded warehouse at Gohpur town the petitioner allegedly submitted OBC certificate before the Commissioner of Excise Department, Assam stating that he belongs to "*Chutia*" community, whereas on enquiry the Circle Officer of Gohpur Revenue Circle found that the petitioner belongs to "*Keot*" community. The ADC, Gohpur Sub-Division by the said letter dated 11.08.2016 also stated that as per the report of the Chairman of the OBC Development Board, Gohpur, the petitioner belongs to "*Keot*" community.

6. Further, by the said letter dated 11.08.2016, the ADC, Gohpur Sub-Division being the In-Charge of Gohpur Sub-Division, requested the SP, Biswanath District to take necessary action as per law regarding submission of alleged false certificate by the petitioner and forwarded a copy his said letter dated 11.08.2016 to the local MLA of 78 Gohpur LAC.

7. Said communication dated 11.08.2016 of the ADC, Gohpur Sub-Division was considered as an FIR and Gohpur Police Station Case No. 224/2016 under Sections 468/420 IPC, corresponding to G.R. Case No. 253/2016, was registered against the petitioner.

8. In said Gohpur P.S. Case No. 224/2016 the petitioner was arrested on 23.09.2016 and later, pursuant to an order of this Court dated 28.09.2016 passed in Bail Application No. 1090/2016, he was released on bail in said Gohpur P.S. Case No. 224/2016.

9. By placing a copy of the application submitted before the Commissioner of Excise Department, Assam, Guwahati for obtaining license of a bonded warehouse at Chatia Chook, Ward No. 3, Gohpur town in the erstwhile district of Sonitpur, now Biswanath, the petitioner submitted that in the said set of applications, he specifically mentioned that he belongs to More Other Backward Communities (MOBC) of "*Chutia*" community enclosing a certificate issued by the Sub-Divisional Circle Officer, Tezpur under No. CC/OBC/84/25 dated 04.01.1984 that he belongs to "*Chutia*" community under MOBC class under the provisional list.

10. It is stated that on the basis of such application, the authorities in the Excise Department of the State by an order dated 21.08.2016 granted him license bearing Registration No. 39/2015-2016 relating to the bonded warehouse at Chatia Chook, Ward No. 3, Gohpur town. Accordingly, on depositing the necessary amount and on executing an agreement with the Excise Department of the State, the petitioner started operating the said bonded warehouse at Gohpur that was allotted to him.

11. The petitioner stated that after being released on bail in said Gohpur P.S. Case No. 224/2016 he filed this criminal petition on 21.12.2016. The Court on 09.02.2017, while issuing notice to the respondents herein, in the interim, suspended the proceeding of said Gohpur P.S. Case No. 224/2016 until further order and the same is still in force.

12. During pendency of this criminal petition, the petitioner preferred a writ petition being WP(C) No. 4474/2016 challenging the said report/opinion of the Circle Officer, Gohpur Revenue Circle dated 19.07.2016, by which it was opined that he belongs to sub-caste "*Keot*" and does not belong to OBC under sub-caste "*Chutia*", on the basis of which the Excise Department of the State initiated the process to withdraw and interfered with the license of bonded warehouse that was granted to the petitioner on 21.08.2016 at Chatia Chook, Ward No. 3, Gohpur town in the then Sonitpur District, now Biswanath District. The ground of challenge of said report/opinion dated 19.07.2016 in said WP(C) No. 4474/2016 was that the Circle Officer, Gohpur Revenue Circle in violation of the principles of Natural Justice and without giving him any opportunity of hearing, of his own came to the conclusion dated 19.07.2016 that the petitioner belongs to sub-caste

"Keot" that does not belong to OBC Community under sub-caste "*Chutia*".

13. The Court on 05.08.2016 while issuing notice to the respondents in said WP(C) No. 4474/2016 in the interim directed that until further orders the respondents therein on the basis of the said report of the Circle Officer, Gohpur Revenue Circle dated 19.07.2016, shall not suspend/cancel the license bearing Registration No. 39/2015-2016 issued to the petitioner by the Excise Department of the State with regard to the said bonded warehouse at Chatia Chook, Ward No. 3, Gohpur town.

14. In the meanwhile, said WP(C) No. 4474/2016 came up for final adjudication before the Court and after hearing the parties, the Court by its order dated 20.01.2021 disposed of said WP(C) No. 4474/2016, allowing the said writ petition preferred by the petitioner setting aside the said order of the Circle Officer, Gohpur Revenue Circle issued under No. GRC/2015-16/2254 dated 19.07.2016 by which the said Circle Officer opined that the petitioner belongs to sub-caste "Keot" that does not belong to OBC community under sub-caste "*Chutia*".

15. The Court by the said order dated 20.01.2021 passed in WP(C) No. 4474/2016 also directed the petitioner to submit his representation before the Deputy Commissioner, Biswanath along with a copy of said order for issuance of proper caste certificate; further directing the Deputy Commissioner, Biswanath to dispose of said representation of the petitioner, as per law holding the field.

16. Pursuant to the said directions of the Court dated 20.01.2021 passed in WP(C) No. 4474/2016, the petitioner submitted a representation before the Deputy Commissioner, Biswanath for issuance of proper caste certificate to him and after due consideration, the All-Assam Other Backward Communities Association, Guwahati vide Serial No. 21/141546 dated 10.12.2021 issued a caste certificate to the petitioner that he belongs to "*Chutia*" community that is recognized as OBC Community.

17. On 26.09.2023 the petitioner filed an additional affidavit in this criminal petition showing that the said local MLA of 78 Gohpur LAC was his business partner and in that regard, he has placed a copy of the contract dated 14.07.2004 that was signed by the petitioner as well as the said local MLA and two others.

18. In the said affidavit filed on 26.09.2023 the petitioner also placed a communication of the concerned MLA dated 29.08.2018 informing the Chief Engineer, PWD Roads, Assam for

cancellation of the petitioner's registration of Class 1-A category Contractor stating that he is a charge-sheeted accused vide Charge-Sheet No. 151/2016 dated 13.11.2016 in said Gohpur P.S. Case No. 224/2016. Pursuant to the same, the Chief Engineer, PWD Roads, Assam on 04.09.2018 suspended the said registration of Class 1-A category Contractor w.e.f. 09.09.2018 until further order, which was challenged by the petitioner in WP(C) No. 6958/2018 and on being interfered by the Court, the Chief Engineer, PWD Roads, Assam by another Office Order dated 10.10.2018 withdrawn his earlier order dated 04.09.2018.

19. It is seen that the entire basis for the complaint dated 11.08.2016 of the ADC, In-Charge of Gohpur before the SP, Biswanath District was the report/opinion of the Circle Officer, Gohpur Revenue Circle dated 19.07.2016 by which it was held that the petitioner belongs to sub-caste "Keot" that does not belong to the OBC community under sub-caste "*Chutia*" on the basis of which Gohpur Police Station Case No. 224/2016, corresponding to G.R. Case No. 253/2016 under Sections 468/420 IPC was registered against the petitioner, in which police submitted charge-sheet vide Charge-Sheet No. 151/2016 dated 13.11.2016, noted above.

20. It is already mentioned above that the Court by its order dated 20.01.2021 passed in WP(C) No. 4474/2016 have set aside and quashed the said report/opinion of the Circle Officer, Gohpur Revenue Circle dated 19.07.2016.

21. Considering the above, it is seen that since the report/opinion of the Circle Officer of the Gohpur Revenue Circle dated 19.07.2016, noted above have been set aside and quashed by the Court vide order dated 20.01.2021 passed in said WP(C) No. 4474/2016, the basis for registration of the FIR against the petitioner relating to Gohpur Police Station Case No. 224/2016, corresponding to G.R. Case No. 253/2016, under Sections 468/420 IPC being no longer in force, said Gohpur Police Station Case No. 224/2016 against the petitioner has no legs to stand and survive.

22. For the reasons above and to give effect to the said order of the Court dated 20.01.2021 passed in WP(C) No. 4474/2016 as well as to prevent the abuse of the process of Court, in exercise of its power conferred under Section 482 of the CrPC, the Court, accordingly, set asides and quash the Gohpur Police Station Case No. 224/2016, corresponding to G.R. Case No. 253/2016 and its subsequent proceeding including the Charge-Sheet No. 151/2016 dated 13.11.2016 submitted in said Gohpur Police Station Case against the petitioner.

- 23.** With the above observations, this criminal petition stands allowed.
- 24.** Interim order passed earlier on 09.02.2017 in this proceeding, stands merged with this order.

JUDGE

Comparing Assistant