

WP(C) 118/2001
BEFORE
THE HON'BLE MR. JUSTICE A. H. SAIKIA

(1) Since both these writ petitions involved common question of law, based on identical facts, I propose to dispose of both the writ petitions by this common judgment and order.

(2) Heard Mr R. Deka as well as Mr j. Hussain learned counsel appearing on behalf of the petitioners and also heard Mr p. K. Mushahary, learned Sr. Govt. Advocate, Arunachal Pradesh representing the State of Arunachal Pradesh.

(3) Despite notice and several orders passed by this Court no affidavit-in-opposition has been preferred by the State/ respondents nor has any record been produced when the matter is called on for hearing.

(4) That being the position, since no affidavit-in-opposition is forthcoming from the State/respondents, the averments and statements made in the writ petitions may be deemed to be admitted by the State/ respondents.

(5) The case of the writ petitioners is that by impugned order dated 9. 4. 2001 (Annexure-2 to the writ petitions) the Sub-Divisional Officer, West Siang District, Likabali, directed these two petitioners along with other 15 persons to deposit their fine amount ranging from Rs. 500/- to Rs. 2,000/- pursuant to the unanimous decision of the Gaonburahs and local leaders of Likabali Circle who decided to impose fine of Rs. 2,000/- per plot of land against those persons who had burnt their cleared jungles and Rs. 500/- against those who had cleared but had not burnt the jungles per plot within the prohibited areas. Such imposition of fine by one Gaonburahs or local leaders has been prompted following the allegations that the writ petitioners along with other 15 persons as mentioned in the impugned order itself had cleared jungles for slash and burn cultivation in and around Likabali township where such clearing etc. had been banned since long for conservation of soil and water resources. It is contended by the writ petitioners that there is no provision under The Assam Frontier (Administration of Justice) Regulation 1945 (hereinafter as 'regulation') authorising such imposition of fine either by the Sub-Divisional Officer or Gaonburah and local leaders as done in the instant case, and accordingly it is submitted that the impugned order ex-facie is illegal and without jurisdiction and not tenable in law.

(6) I have given my anxious consideration to the rival submissions advanced on behalf of the parties and also have scanned the materials available on record including the impugned order.

(7) From the perusal of the impugned order, it appears that the Sub-Divisional officer, West Siang District, Likabali has imposed the fine amount above mentioned on the basis of unanimous decision taken by the Gaonburah or local leaders of Likabali Circle for imposition of such fine for alleged clearing of the jungles for slash and burn cultivation within the prohibited area of Likabali township .

(8) A bare reading of the provisions of the regulation particularly Regulation 20, as by the learned counsel for the petitioner, goes to show that the village authority may impose only a fine not exceeding Rs. 50/- (Rupees fifty) for any offence which they are competent to try as enumerated in the Regulation 19. For the sake of convenience and also for proper appreciation of the issue in hand, it would be apt and expedient to refer the provisions of Regulations 19 and 20 which are reproduced hereunder -

\19. The village authorities may try any case involving any of the under mentioned offences in which the person or person accused is or are resident within their

r jurisdiction:-Theft, including theft in a building. Mischief, not being mischief by fire on any explosive substance. Simple hurt. Criminal trespass or house trespass. Assault or using criminal force. 20. A village authority may impose a fine not exceeding Rs. 50/- for any offence which they are competent to try, and may also award payment in restitution or compensation to the extent of the injury sustained; such fines and payments may be enforced by distraint of the property of the offender. \

(9) After going through the above provisions, I feel safe to hold that the village authority or Gaonburahs including the local leaders whosoever has no authority to impose a fine exceeding Rs. 50/ -. In the case in hand, the fine amount so imposed is ranging from Rs. 500/- to 2000/- which appears prima facie to be palpably illegal and without jurisdiction and contrary to the provisions of law above referred. That apart, from careful reading of the regulation, I do not find any such provision which empowers the present authority i. e. Sub-Divisional Officer or gaonburah and local leaders to exercise jurisdiction to impose such fine ranging from Rs. 500/- - 2000/ -.

(10) Consequently, I have no hesitation to declare the impugned order as illegal and without jurisdiction and the same is hereby quashed and set aside.

(11) In the result, both the writ petitions are allowed. However, I pass no order as regards costs.