

**HIGH COURT OF TRIPURA
AGARTALA**

1. W.P. (C) No.1730/2017

Md. Abdul Basid Choudhuri,
S/O Abdul Noor Choudhury,
Resident of Village – Dakshin Kadamtala,
P.O. & P.S. – Kadamtala,
District – North Tripura.

----- Petitioner(s).

Versus

1. The State of Tripura,
Represented by the Chief Secretary,
Government of Tripura,
New Capital Complex, P.O. – Kunjaban,
Agartala, Tripura West, Pin – 799006.

2. The District Magistrate & Collector,
North Tripura District,
P.O. & P.S. – Dharmanagar, Pin – 799250.

3. The Superintendant of Police,
North Tripura District,
P.O. & P.S. – Dharmanagar, Pin – 799250.

4. The Sub-Divisional Magistrate,
Dharmanagar Sub-Division,
P.O & P.S. – Dharmanagar,
North Tripura District, Pin – 799250.

5. The Block Development Officer,
Kadamtala R.D. Block,
P.O. & P.S. – Kadamtala,
District – North Tripura, Pin – 799261.

6. The Chairman,
Kadamtala Panchayat Samity,
Represented by the Block Development Officer,
Kadamtala R.D. Block, P.O. & P.S. – Kadamtala,
District – North Tripura, Pin – 799261.

7. The Panchayat Secretary,
Kadamtala Gram Panchayat Office,
Kadamtala R.D. Block, P.O. & P.S. – Kadamtala,
District – North Tripura, Pin – 799261.

----- Respondent(s).

Connected with

2. W.P. (C) No.1731/2017

Manik Miah,
S/O Late Askir Ali,

Resident of Village – South Kadamtala,
P.O. & P.S. – Kadamtala,
District – North Tripura.

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District – North Tripura, Pin – 799261.

----- Respondent(s).

3. W.P. (C) No.1732/2017

Sri Sukhamoy Paul,
S/O Late Ambika Charan Paul,
Resident of Village – Saraspur,
P.O. & P.S. – Kadamtala,
District – North Tripura.

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----- Respondent(s).

4. W.P. (C) No.1733/2017

Sri Madan Kr. Nath,
S/O Sri Monoranjan Nath,
Resident of Village – Saraspur,
P.O. & P.S. – Kadamtala,
District – North Tripura.

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----- Respondent(s).

5. W.P. (C) No.1734/2017

Sri Sagar Deb,
S/O Sri Subrata Deb,
Resident of Village – Kadamtala,
P.O. & P.S. – Kadamtala,
District – North Tripura.

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District – North Tripura, Pin – 799261.

----- Respondent(s).

6. W.P. (C) No.1735/2017

Suhel Ahmed Choudhury,
S/O Md. Ataur Rahaman Choudhury,
Resident of Village – 40 Dhrun, Kadamtala,
P.O. & P.S. – Kadamtala,
District – North Tripura.

----- Petitioner(s).

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P.O. & P.S. – Kadamtala,
District – North Tripura, Pin – 799261.

6. The Chairman,
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----- Respondent(s).

7. W.P. (C) No.1736/2017

Sri Sanjoy Deb,
S/O Sri Kanti Deb,
Resident of Village – Saraspur,
P.S. – Kadamtala,
District – North Tripura.

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District – North Tripura, Pin – 799261.

----- Respondent(s).

8. W.P. (C) No.1737/2017

Kabir Uddin Choudhury,
S/O. Churhab Uddin Choudhury,
Resident of Village – Kalagangerpar,
P.O. – Kalagangerpar, P.S. – Kadamtala,
District – North Tripura.

----- Petitioner(s).

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District – North Tripura, Pin – 799261.

----- Respondent(s).

For Petitioner(s) : Ms. S. Deb, Advocate.

For Respondent(s) : Mr. T.D. Majumder, GA.
Mr. G.S. Bhattacharjee, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI

Order

26/03/2018.

Since the common question of law and facts are involved in the batch of writ petitions, all the writ petitions are disposed of by the present order.

2. The facts are being noticed from Writ Petition No.1730/2017, Md. Abdul Basid Choudhury vs. State of Tripura & others, it has been alleged that the stall was allotted to the petitioner in the gallery of the playground of Kadamtala Sr. Sec. School by Panchayat Samity, Dharmanagar, North Tripura on 28.05.2014 and adequate amount as determined by the authority was deposited by the allottee/writ petitioner of Rs.6,200/-. The receipt was provided to the individual allottee and the possession was also handover to the allottee/writ petitioner.

3. A notice was issued by Panchayat Secretary of Kadamtala Gram Panchayat dt.30.10.2015 in which was alleged that although the allotment was taken place and money has been deposited by each of the allottee, but according to the Panchayat Secretary, the procedure prescribed by law for allotment was not followed with a direction to refund the amount which has been deposited by each of the allottee. In consequence thereof, a communication was made by the Sub-Divisional Police Officer, Dharmanagar, North Tripura dt.01.02.2016 to an individual allottee for handover the keys of the stall situated at Kadamtala School Gallery. This matter was challenged in the batch of writ petitions by an individual allottee/petitioner.

4. Counsel for the petitioner has brought to my notice that few other allottees who were served with notice followed by the impugned order dt. 01.02.2016, the individual allottee approached this court by filing a batch of writ petitions and writ petition No.W.P.(C)1317/2016 along with 5 others came to be decided by a Single Bench of this court after hearing the parties vide judgment dt.13.07.2017 and this court considers it appropriate to reproduce the view expressed by the Single Bench of this court while disposing of the writ petition:

"06. In view of this, the impugned orders [Annexure2 to each of the writ petitions] are set aside and quashed. The Sub-Divisional Magistrate, Dharmanagar, North Tripura is directed to vacate attachment order and hand-over the possession to the petitioners within a period of 7(seven) days from the date when they would receive a copy of this order. However, the Kadamtala Panchayat Samiti is permitted to take appropriate action only if there are permitted by law and on observing the principles of natural justice.

07. With these observation and direction, these writ petitions, being W.P.(C) 1317 of 2016, W.P.(C) 1322 of 2016, W.P.(C) 1323 of 2016, W.P.(C) 1324 of 2016, W.P.(C) 1379 of 2016 and W.P.(C) 1380 of 2016 are allowed to the extent as indicated above and disposed of."

5. Indisputably in the instant batch of writ petitions before the action being taken fair and reasonable opportunity of hearing has not been afforded. It is imperative that before any adverse action being taken prejudicial to the interest of the petitioner/individual allottee reasonable opportunity of hearing has to be afforded and this what the court observed while disposing of the earlier batch of writ petitions under its judgment dt.13.07.2017.

6. After I have heard the counsel for the parties, I concur with the view expressed by the coordinate Single Bench of this court and I am also of the view that the compliance of natural justice is a sine qua non and it is the settled principles of law that no one should be condemned unheard. In the instant case, after allotment being made the money was deposited by the individual allottee and right has been vested which could not have been taken away without due compliance of the principles of natural justice.

7. Accordingly, the writ petitions stands allowed and notices so issued dt.30.10.2015 & all consequential actions are hereby quashed and set aside with liberty to the respondents to take appropriate action after due compliance and principles of natural justice as permissible by law.

8. Writ petition in the above terms stands disposed of.



CHIEF JUSTICE

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