

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.518/2020

Sri Amitava Chakraborty.

..... Petitioner(s).

Vs.

The State of Tripura and ors.

..... Respondent(s).

For Petitioner(s) : Mr. P Roy Barman, Advocate.

For Respondent(s) : Mr. Debalaya Bhattacharjee, Govt. Adv.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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26/11/2020

Petitioner has made following prayers :

“Under the circumstances, stated above, it is submitted, that, the Hon’ble high Court will be kind enough to :

i. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents Nos.1 to 5 to restore the Khas Pukur(Pond), attracting Plot No-1881, Khatian No.1/22, situated within Mouja, Revenue Circle & Tehshil – Kailashahar by removing the earth from it and to give it’s original shape.

ii. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents No.1 to 5 to take action against the Respondent No.7 under TLR & LR Act, 1960, for illegal filing up the Khas Pukur(Pond), attracting Plot No.1881,

Khatian No.1/22, situated within Mouja, Revenue Circle & Tehsil – Kailashar.

iii. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents No.1 to 5 to initiate departmental proceeding against the Respondents No.6 for dereliction & abdication of the statutory duty and also for abusing the statutory power by launching the malicious proceeding against the petitioner & others.”

According to the petitioner, respondents No.6 and 7 who are private respondents, have illegally and unauthorizedly filled up a public pond situated on Khatian No.1/22 Dag No.1881, Mouja Kailashahar, Ward No.7 which is situated close to the petitioner's house. The petitioner has brought this fact to the notice of the authorities State as well as the Municipal Corporation, however, according to the petitioner, no steps are taken for restoring the original position of the public land. Counsel for the petitioner submitted that respondents No.6 and 7 are influential persons. They have tampered with public land by damaging a pond. According to the information to the petitioner, they intend to use the said land for construction of a school building.

My attention was drawn to a reply from the Kailashahar Municipal Council dated 6th July, 2020 to the petitioner in response to his queries under Right to Information Act from which it can be gathered that the KMC is also aware about such encroachment and this fact was

brought to the notice of the Sub-Divisional Magistrate(SDM), Kailashahar, by the KMC authorities. Counsel submitted that despite these facts, no action is taken by the SDM or the Municipal Council for remedial measures. He submitted that filling up of a pond on a public land has grave consequences and is prohibited.

At the first instance, these allegations and averments need to be examined by the official respondents No.1 to 5 and in particular the SDM, Kailashahar as well as Kailashahar Municipal Council. A full copy of this petition with annexures shall be placed before the said authorities along with this order by the petitioner within a period of 1(one) week from today. The said authorities would consider the averments of the petitioner and take such steps as found appropriate in terms of law. Needless to add, respondents No.6 and 7 shall also be granted hearing since their version is not yet on record. The final decision as to what steps are needed, if at all, shall be taken by the SDM and the Municipal Council within a period of 3(three) months from today. The decision should be communicated to the petitioner.

Petition is disposed of accordingly. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI, CJ)