

GAHC010051002023



2026:GAU-AS:3352

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

Case No. : WP(C)/1512/2023

EASTERN KARBI ANGLONG COLLEGE
SARIHAJAN, P.O. SARIHAJAN, P.S. BOKAJAN, DIST. KARBI ANGLONG,
ASSAM, PIN- 782480, REPRESENTED BY ITS PRINCIPAL DR. ANIL
CHANDRA DAS.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, ASSAM SECRETARIAT (CIVIL), DISPUR, GUWAHATI-781006.

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE KARBI ANGLONG AUTONOMOUS COUNCIL (KAAC)

REPRESENTED BY THE PRINCIPAL SECRETARY
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
DIST. KARBI ANGLONG
ASSAM
PIN- 782460.

4:THE DEPUTY COMMISSIONER
KARBI ANGLONG
DIST. KARBI ANGLONG
PIN- 782460.

5:THE ADDITIONAL DEPUTY COMMISSIONER
KARBI ANGLONG
O/O- THE DEPUTY COMMISSIONER
KARBI ANGLONG
DIST. KARBI ANGLONG
PIN- 782460.

6:THE DEPUTY SECRETARY

DEPARTMENT OF REVENUE
KARBI AUTONOMOUS COUNCIL
DIPHU
ASSAM
PIN- 782460.

7:THE ASSISTANT REVENUE OFFICER/ ASSISTANT SETTLEMENT OFFICER
DIPHU CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
ASSAM
PIN- 782460

Advocate for the Petitioner : MS. S MAHANTA, MR. M MAHANTA,MR A CHAKRABORTY

Advocate for the Respondent : GA, ASSAM, SC, HIGHER EDU,SC, REVENUE,MS. P R
MAHANTA,SC, K A A C

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

Judgment & Order(Oral)

Date : 05-03-2026

Heard Shri. M. Mahanta, learned counsel for the petitioner. Also heard Shri. N. Das, learned State counsel; Shri. J. Chutia, learned Standing Counsel, KAAC; Ms. G. Hazarika, learned Standing Counsel, Revenue Department and Ms. P.R. Mahanta, learned Standing Counsel, Higher

Education Department.

2. It is a matter of astonishment that a college has to approach this Court invoking its extraordinary jurisdiction for making the land allotted to the same encroachment free. The relief claimed in this petition reads as follows :

i) A writ in the nature of Mandamus and/or any other writ, order or direction of like nature should not be issued directing the respondent authorities to take appropriate step(s) forthwith to evict the illegal encroachers from the land belongs to the petitioner college pursuant to the Order dated 12.06.2018 (Annexure - 13) issued by the respondent Karbi Anglong Autonomous Council and the subsequent Order dated 23.08.2018 (Annexure - 15) issued by the respondent Deputy Commissioner; AND/OR,

ii) A writ in the nature of Mandamus should not be issued directing the respondents to give effect and/or implement to the Order dated 23.08.2018 (Annexure - 15) issued by the respondent Deputy Commissioner forthwith and thereby, evict the illegal encroachers from the land belongs to the petitioner college without further delay; AND/OR,

iii) As to why any other appropriate writ, order or direction of similar nature should not be issued so as to give full relief to the petitioner; and upon cause or causes being shown and

upon hearing the parties and on perusal of records, may be pleased to make the Rule absolute. Further, to pass such other order or orders as this Hon'ble Court may deem fit and proper and in accordance with law.

3. As per the facts projected, the petitioner is a provincialised college, which was established in the year 1997. The college was allotted 100 Bighas of land vide an order dated 26.03.1998 and the same was followed by handing over possession vide certificate dated 30.03.1998. It has been contended that in the year 2013, the college was provincialised and subsequently, approval was also granted to start the Science stream. The issue in this case which has been indicated above is with regard to the aspect of making the land encroachment free. The land in question contains of 2 (two) Dags, namely, Dag No.171 comprising of 70 Bighas and Dag No.286 comprising of 30 Bighas. When the Principal who was there in the year 2017 had noticed that no concrete steps were taken to remove the encroachment, the authorities in the Karbi Anglong Autonomous Council were approached which led to the Additional Deputy Commissioner to issue a communication dated 18.08.2017 to the Assistant Revenue Officer to take steps for removal of the encroachment.

4. The Revenue Department, KAAC vide communication dated December 2017, had approved the eviction process and on 27.12.2017, an estimate of the cost involved was also made which was Rs.1,41,900/- (Rupees One Lakh Forty-One Thousand Nine Hundred). The Revenue Department thereafter, issued a communication dated 15.03.2018 to the college stating that there was fund

crunch and therefore, the estimated cost was to be arranged by the college which however, would be reimbursed. The said communication was reiterated by the Assistant Revenue Officer vide communication dated 17.03.2018, directing the college to deposit the amount. The amount mentioned above was accordingly deposited by the petitioner college vide cheque on 19.03.2018. The authorities had accordingly fixed the date of eviction as 19.06.2018 vide a communication dated 12.06.2018. However, on the date fixed, the eviction process could not be carried out and vide a communication dated 21.08.2018, the date was re-fixed on 31.08.2018 citing some reasons. Accordingly, an order was passed by the Additional Deputy Commissioner on 23.08.2018, fixing the date of eviction as 31.08.2018 and had given all necessary instructions, whereafter, the Assistant Revenue Officer on 28.08.2018 had prepared an eviction plan. However, even on the said date, no action for eviction was taken and the matter remained as such.

5. Having no other alternative, the petitioner college had approached the Chief Executive Member vide a petition dated 26.09.2022 praying for an urgent action for making the land eviction free. It was also pointed out that the eviction process which was undertaken was postponed and thereafter, no action has been taken.

6. Shri. M. Mahanta, learned counsel for the petitioner has submitted that the entire approach of the petitioner to make the land allotted encroachment is bonafide and on public interest. By drawing the attention of this Court to the allotment order dated 26.03.1998 and the possession

certificate dated 30.03.1998, the learned counsel has submitted that there is no dispute to the aspect of such allotment. He has submitted that after such allotment, activities were carried out for utilization. However, in course of time, it was noticed that there was illegal encroachment. He has submitted that though there was a stipulation in the allotment order that the land has to be utilized within a period of one year, the land being a huge one comprising of 100 Bighas utilization would not require construction on the entire plot of land as parts of the land are also required to be kept vacant for playground and other activities.

7. Be that as it may, he has submitted that on approach of the college to the authorities, steps were indeed taken for removal of the encroachment. He has highlighted that after the estimate was prepared for carrying out such eviction, due to fund crunch even the amount of Rs.1,41,900/- (Rupees One Lakh Forty-One Thousand Nine Hundred) was deposited by the college to carry out the eviction. He has submitted that for reasons which does not appeared to be germane and relevant, the eviction process was postponed on two occasions in-spite of the fact that an order was passed on 23.08.2018 by the Additional Deputy Commissioner, re-fixing the date and eviction plan was also prepared. He has submitted that it is the duty and obligation of the KAAC to make the land encroachment free so as to ensure that a healthy academic atmosphere prevails and the purpose of such allotment can be achieved to the fullest.

8. Shri. M. Mahanta, learned counsel for the petitioner has also

drawn the attention of this Court to the affidavit-in-opposition filed by the respondent no.6 on 10.08.2023. Specific reference has been made to the averments made in paragraph 11 of the affidavit-in-opposition, wherein certain procedural implications was stated to be the reason for postponing the eviction process. He has also submitted that the aspect that 70 Bighas of land not being utilized cannot be said to be a reason to bring in the deemed provision of reversion of the land in as much as the authorities has taken active steps for making the land eviction free in the process initiated in the year 2017. He has also drawn the attention of this Court to the affidavit-in-reply filed on 29.08.2025, more specifically the averments made in paragraph 6, in which the land which has been utilized has also given in tabular form. For ready reference, the relevant part of the averments are extracted herein below :

Particular	Area of land
College Playground	10 Bigha
Girls Hostel (Under construction)	05 Bigha
Proposed Boys Hostel	03 Bigha
Proposed Indoor Stadium	09 Bigha
Total land in used	27 Bigha

9. The learned counsel for the petitioner accordingly submits that appropriate direction be given to the respondents authorities to make the land eviction free so as to ensure that a better academic atmosphere prevails.

10. Per contra, Shri. J. Chutia, learned Standing Counsel, KAAC, has submitted that the land was allotted in the year 1998 and there is no dispute to this fact. He has however, hastened to add that there was a condition attached to the allotment order that if the same is not utilized within a period of year, the same would get reverted to the Council. He has submitted that the possession certificate dated 30.03.1998 would show that possession of the entire land in question was handed over. He has contended that no steps whatsoever were taken by the college to initiate any process for eviction and after a long duration in the year 2017, such step was taken.

11. He has justified that though the authorities had taken steps for carrying out an eviction process, there were genuine reasons to postpone which include the procedural aspects. He has also submitted that for such eviction process, cooperation of the parties seeking evictions is required which was lacking.

12. Shri. N. Das, learned State counsel has submitted that in one of the communication issued by the petitioner college dated 06.07.2007, it has been stated that prior to handing over of the plot of land to the college, some families had already settled in the said land. He has therefore submitted that it was very much within the knowledge of the college of the encroachment and there has

been an undue delay in approaching the authorities.

13. Shri. M. Mahanta, learned counsel for the petitioner in his rejoinder has submitted that defence made by the respondents of the condition attached to the allotment order dated 26.03.1998 cannot be put into application in a mechanical manner as the land in question is a huge area of 100 Bigha which has been allotted to a public institution. He has also submitted that the defence taken in the context of the letter dated 06.07.2007 is not acceptable in as much as in the said communication, it has also been written that the college authorities were time and again reminding the KAAC for the steps to be taken for eviction, which was not done.

14. The rival submissions have been duly considered and the materials placed before this Court including the affidavits have been carefully perused.

15. As indicated above, the prayer in this writ petition is to take steps for making the land allotted to the petitioner college encroachment free.

16. On a perusal of the materials before this Court, there is no doubt with the aspect of the bonafide and the involvement of the public interest in this present petition which is instituted by the college. There is no dispute to the order of allotment of 100 Bighas of land vide order dated 26.03.1998, followed by the possession certificate dated 30.03.1998.

17. The learned counsel for the respondents have tried to raise two issues

namely the delay in approaching this Court and secondly, the aspect of the condition attached to the allotment order dated 26.03.1998, requiring utilization within a period of one year from the date of allotment. As regards the issue of delay, the said aspect has to be considered on case to case basis depending on the facts and background. As mentioned above, the petitioner herein is an education institution and not an individual. Secondly, the aspect of delay which was available to the respondent authorities to raise was not done when the initiative was taken in the year 2017 to remove the encroachment. In fact, the initiation had culminated into orders passed by the appropriate authorities on numerous occasions.

18. This Court has also noticed that an estimate of cost which would be involved for the eviction was also made amounted to Rs.1,41,900/- (Rupees One Lakh Forty-One Thousand Nine Hundred) only and the same had to be paid by the college on the pretext of fund crunch. There is no dispute to those aspect of making such deposit by the college, whereafter two dates were fixed namely, 19.06.2018 and 31.08.2018. So far as the second date is concerned, an order was passed on 23.08.2018 by the Additional Deputy Commissioner, followed by an eviction plan by the Assistant Revenue Officer on 23.08.2018. No discernible reasons have been cited by the respondent authorities as to why the eviction could not be carried out except the plea that it involve procedural aspects.

19. In this connection, the averment by the respondent no.6 made in paragraph 11 has been noted, wherein it has been categorically stated that due

to certain procedural implication, the same could not be carried out. The aforesaid defence on the part of the respondent authorities cannot be accepted more so in view of the conscious steps already taken in the year 2017-2018.

20. As regards, the second issue sought to be raised regarding utilization of the land within a year, this Court is of the view that the land allotted is a huge one of 100 Bighas, which is not to private individual but to a college. It is a common knowledge that when such land is allotted to a college or a public institution, the construction could not be done in the entire plot of land and considerable area has to be left vacant for playground and other activities. Though there is some dispute as to when the encroachment had taken place i.e. whether it was prior to the allotment or after the allotment, the very fact that the administration had taken a conscious decision to carry out eviction in the year 2017 which had suddenly come to a standstill makes the defence a feable one. It is not the case of the respondent that there were any orders from any Court restraining the eviction.

21. In that view of the matter, this Court is of the considered opinion that the petitioner has been able to make out a case for interference. This Court is also perturbed by the fact that the petition of this nature had to be filed for a purpose intrinsically connected with public interest i.e. making an area allotted to an educational institution encroachment free.

22. In view of the above, the writ petition stands allowed by directing the respondent authorities, more particularly the Karbi Anglong Autonomous

Council, to take immediate steps for carrying out the eviction and make the entire area allotted to the college encroachment free. The said exercise be completed on a priority basis and in any case, within a period of 90 days from today. The respondent - KAAC is also directed to immediately reimburse the amount of Rs.1,41,900/- (Rupees One lakh Forty-One Thousand Nine Hundred) only to the petitioner college with a further interest at the rate of 18% from the year 2017. Under the facts and circumstances, this Court also imposes cost of Rs. 1,00,000/- (Rupees One Lakh) only upon the Karbi Anglong Autonomous Council to be paid to the petitioner college.

23. The writ petition stands allowed and disposed of accordingly.

JUDGE

Comparing Assistant