

GAHC010019732016



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

Case No. : PIL/50/2016

1.SRI ANIT CHETRI and 2 ORS.
S/O LT. DEBI BAHADUR CHETRI, VILL. MAIJAN BORSAIKIA GAON, P.O.
HILOIDHARI, DIST- DIBRUGARH, ASSAM

2: BINA SAIKIA
D/O UTTAM SASIKIA
VILL. MAIJAN BORSAIKIA GAON
P.O. HILOIDHARI
DIST- DIBRUGARH
ASSAM

3: MAYA SARMA
W/O SRI BISHNU SARMA
VILL. MAIJAN BORSAIKIA GOAN
P.O. HILOIDHARI
DIST- DIBRUGARH ASSA

VERSUS

1. THE STATE OF ASSAM AND 9 ORS
REP. BY THE CHIEF SECY., ASSAM SECRETARIAT, DISPUR, ASSAM

2:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
DEPTT. OF MUNICIPAL ADMINISTRATION
DISPUR ASSAM

3:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
DEPTT. OF PUBLIC HEALTH
DISPUR ASSAM

4:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
WATER RESOURCE DEPTT.
DISPUR ASSAM

5:THE SECY. TO THE GOVT. OF ASSAM
ENVIRONMENT and FOREST DEPTT.
DISPUR GHY-6

6:THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
ASSAM BAMUNIMAIDAM GHY-21

7:THE DY. COMMISSIONER
DIBRUGARH ASSAM

8:THE PROJECT DIRECTOR
ASSAM URBAN INFRASTRUCTURE INVESTMENT PROGRAM AUIIP
GUWAHATI DEV. DEPTT.
3RD FLOOR TRIPTI TOWERS
GANESHGURI GHY-5

9:DIBRUGARH MUNICIPAL BOARD
REP. BY ITS CHAIRMAN

10:THE SUPERINTENDENT OF POLICE
DISTRICT DIBRUGARH ASSAM

Linked Case : PIL/38/2022

1. ORIENTAL RURAL DEVELOPMENT SOCIETY AND 7 ORS
KATIMARI PATHER NAGAON
REPRESENTED BY ITS SECRETARY SHARIFUZ ZAMAN
AGE- 38 YEARS
S/O- ABDUL HEKIM
VILL.- KATIMARI PATHAR NEAR CRPF CAMP
P.O. HERAPATTY P.S. AND DIST. NAGAON
ASSAM PIN- 782002.

2: MAJ KATIMARI PATHER A.W.C
KATIMARI PATHER NAGAON
REPRESENTED BY ITS SECRETARY MS. MONOWARA BEGUM
AGE-54 YEARS
W/O- JALAL UDDIN
VILL.- KATIMARI PATHAR P.O. HERAPATTY
P.S. AND DIST. NAGAON ASSAM PIN- 782002

3: DAKHIN KATIMARI PATHER MINI A.W.C.
KATIMARI PATHER NAGAON
REPRESENTED BY ITS SECRETARY
MS. ZANNATUL FERDOUS AGE- 30 YEARS
W/O- ARSHAFUL ANOWAR
VILL.- KATIMARI PATHAR

P.O. HERAPATTY PS.. AND DIST. NAGAON
ASSAM PIN- 782002.

4: NO. 1 KATIMARI DOLONI PATHER A.W.C.
KATIMARI PATHER NAGAON
EPRSENTED BY ITS SECRETARY MS. SHAFIA BEGUM AGE 44 YEARS
MS. SHAFIA BEGUM, AGR 44 YEARS
W/O- MOZIBUR RAHMAN
VILL.- KATIMARI PATHAR P.O. HERAPATTY
P.S. AND DIST. NAGAON ASSAM PIN- 782002.

5: HERAPATI GAON PANCHAYAT
WARD NO. 9 KATIMARI PATHER NAGAON
REPRESENTED BY ITS VICE PRESIDENT
MS. AKLIMA KHATUN AGE- 30 YEARS
D/O- SUKUR ALI
VILL.- KATIMARI PATHAR P.O. HERAPATTY
P.S. AND DIST. NAGAON ASSAM PIN- 782002.

6: HERAPATI GAON PANCHAYAT
WARD NO. 8 KATIMARI PATHER NAGAON
REPRESENTED BY ITS WARD MEMBER
MS. ELOWARA BEGUM AGE 30 YEARS
W/O- JAHIRUL ISLAM
VILL.- KATIMARI PATHAR P.O. HERAPATTY
P.S. AND DIST. NAGAON ASSAM PIN- 782002.

7: MOZIBUR RAHMAN
S/O- ALAL UDDIN
VILL.- KATIMARI PATHAR P.O. HERAPATTY
P.S. AND DIST. NAGAON ASSAM PIN- 782002.

8: INNAS ALI
S/O- LATE SABED ALI
VILL.- KATIMARI PATHAR
P.O. HERAPATTY P.S. AND DIST. NAGAON
ASSAM PIN- 782002. VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, MUNICIPAL ADMINISTRATION DEPARTMENT
DISPUR GUWAHATI-781006.

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION DEPARTMENT
DISPUR GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER
NAGAON DISTRICT NAGAON
ASSAM PIN- 782001.

4:NAGAON MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRMAN
NAGAON PIN- 782001.

5:CHIARMAN
NAGAON MUNICIPAL BOARD
NAGAON PIN- 782001.

Linked Case : PIL/74/2019

ON THE DEATH OF SANTI LAL ACHARJEE
HIS LEGAL HEIR SMTI. SUMITA ACHARJEE
D/O LATE SANTI LAL ACHARJEE
R/O DARIKAPAR KHATAPATHAR, MOUZA NAGARMAHAL
P.O.- NAMTIAL PATHAR P.S. AND DIST- SIVASAGAR
ASSAM PIN-785697

VERSUS

1. THE STATE OF ASSAM AND ORS
THROUGH THE SECY
DEPTT. OF MUNICIPAL ADMINISTRATION GOVT. OF ASSAM
ASOM SACHIVALAYA DISPUR GHY-6.

2:TO THE SECY.-IN-CHARGE
DEPT. OF URBAN DEVELOPMENT
GOVT. OF ASSAM
ASOM SACHIVALAYA DISPUR GHY-6.

3:DEPUTY COMMISSIONER, SIVASAGAR DISTRICT
P.O. AND DIST. SIVASAGAR ASSAM

4:DISTRICT MEDICAL OFFICER
CIVIL HOSPITAL, SIVASAGAR
P.O. AND DIST. SIVASAGAR ASSAM

5:DISTRICT-IN-CHARGE
POLLUTION CONTROL BOARD
MELACHAKAR SIVASAGAR
P.O. AND DIST. SIVASAGAR ASSAM

6:SIVASAGAR MUNICIPAL BOARD
REP. BY THE CHAIRMAN
P.O. AND DIST. SIVASAGAR ASSAM

7: SIVASAGAR DEVELOPMENT AUTHORITY
REP. BY THE CHAIRMAN
CENTRAL MARKET, SIVASAGAR
P.O. AND DIST. SIVASAGAR ASSAM

8: THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF HOUSING AND URBAN AFFAIRS
GOVERNMENT OF INDIA
NEW DELHI-110001.

- For the Petitioner(s) : Mr. M. Smith, Advocate in PIL No.50/2016.
: Mr. H.K. Das, Amicus Curiae in PIL No.38/2022.
: Mr. D.K. Das, Amicus Curiae.
- For the Respondent(s) : Mr. D. Nath, Senior Government Advocate, Assam.
: Mr. P. Nayak, Government Advocate in PIL No.38/2022.
: Mr. R.M. Das, Government Advocate for respondent No.4
in PIL No.50/2016.
: Mr. R.K.D. Choudhury, Deputy Solicitor General of India.
: Mr. T.J. Mahanta, Senior Advocate assisted by Ms. P.
Sarma, Advocate for respondent No.6 in PIL No.74/2019.
: Mr. S.C. Khound, Advocate in PIL No.38/2022.

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

01.05.2024

(Vijay Bishnoi, CJ)

On 01.04.2024, this Court requested Mr. D.K. Das, learned counsel to assist this Court in these writ petitions (PILs) which are filed by the petitioners mainly raising a grievance regarding mismanagement in the State of Assam on the issue of solid waste management.

Mr. D.K. Das has graciously accepted the request to become Amicus Curiae in these matters. He has submitted that the matter regarding management of solid

waste in the whole country was taken up by the National Green Tribunal (NGT), New Delhi in Original Application No.199/2014 and vide order dated 02.01.2017, several directions had been issued to the Central Government as well as the State Governments to take effective steps for the purpose of management of solid waste in the country.

It is submitted that the Hon'ble Supreme Court has thereafter dealt with the issue of solid waste management in ***Outrage as Parents End Life After Child's Dengue Death***, in RE and passed several directions to the Central Government as well as the State Governments to comply with the directions given by the NGT in its order dated 02.01.2017.

Mr. D. K. Das, learned Amicus Curiae has pointed out that under the Solid Waste Management Rules, 2016 (in short, the Rules of 2016), the Central Government, Central Pollution Control Board, State Governments and State Pollution Control Boards have been entrusted with several responsibilities to take effective measures for dealing with the menace of solid waste management.

It is pointed out that as per Rule 23 of the Rules of 2016, every State has to constitute a State Level Advisory Body. It is also submitted that the Central Pollution Control Board as well as the State Pollution Control Board is required to supervise the management of solid waste in the country as well as in the respective States.

Mr. D.K. Das, learned Amicus Curiae has further submitted that from the affidavit filed on behalf of the State of Assam, it is not clear whether any State Level Advisory Board has been constituted or any policy has been framed under Rule 11 of the Rules of 2016. Mr. Das has submitted that the Central Pollution Control Board, Pollution Control Board, Assam, Ministry of Environment and Climate Change, Union of India and the Housing and Urban Affairs Department, Government of Assam have not been made parties in the pending PILs. It is therefore prayed that the above referred authorities be directed to be impleaded as party respondents in these three writ

petitions (PILs).

Taking into consideration the above facts and circumstances of the cases, we deem it appropriate to implead the "Ministry of Environment and Climate Change, Union of India, through its Secretary", as a party respondent in these PILs.

We further direct to implead the "Central Pollution Control Board", "the Pollution Control Board, Assam" and "the Housing and Urban Affairs Department, Government of Assam" as party respondents in these writ petitions.

It is also stated that in some of the writ petitions, "the Chief Secretary of the State of Assam" is not made a party respondent.

We direct that "the Chief Secretary of the State of Assam" also be impleaded as party respondent in the writ petitions where he is not a respondent.

Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India has appeared on behalf of the Ministry of Environment and Climate Change, Union of India as well as the Central Pollution Control Board. He may file his response by way of an additional affidavit on the issues raised by Mr. D.K. Das, learned Amicus Curiae by the next date of hearing.

Mr. S. Barua, learned Standing Counsel, Pollution Control Board, Assam appears on behalf of the said respondent and Mr. D. Nath, learned Senior Government Advocate, Assam appears for Housing and Urban Affairs Department, Government of Assam.

Learned counsel appearing for the Pollution Control Board, Assam and the Housing and Urban Affairs Department, Government of Assam, may also file additional affidavit(s) regarding the issues raised by Mr. D.K. Das, learned Amicus Curiae by the next date of hearing.

Learned counsel appearing for the petitioners may file amended cause-titles of the writ petitions impleading the newly added respondents within a period of 2(two)

weeks.

List these matters again on 05.08.2024.

JUDGE

CHIEF JUSTICE

Comparing Assistant