

GAHC010087822021



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

Case No. : PIL/29/2021

ABHHIJIT SARMAH
S/O TAPAN CHANDRA SHARMA, SADASIVA PATH, CHIRING CHAPORI,
DIBRUGARH WEST, DIBRUGARH, ASSAM-786001

VERSUS

UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, NEW DELHI-110001

2:STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY DEPARTMENT
OF HOME AFFAIRS
DISPUR
GUWAHATI-781006

3:DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTERS ULUBARI
GUWAHATI-781007

4:CHAIRPERSON
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS
5TH FLOOR
CHANDERLOK BUILDING
36
JANPATH
NEW DELHI-110001

5:CHAIRPERSON NATIONAL HUMAN RIGHTS COMMISSION
FARIDKOT HOUSE
COPERNICUS MARG
NEW DELHI-110001

6:CHAIRPERSON

ASSAM HUMAN RIGHTS COMMISSION
GAUHATI MEDICAL COLLEGE ROAD
BHANGAGARH
GUWAHATI-781005
ASSAM

7: DISTRICT MAGISTRATE AND DEPUTY COMMISSIONER
DISTRICT MAGISTRATE OFFICE
COLLECTORATE
DHUBRI
ASSAM-78330

Advocate for the Petitioner : MS. S SARMA

Advocate for the Respondent : ASSTT.S.G.I.

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. SUDHANSHU DHULIA
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

01-06-2021

(Sudhanshu Dhulia, CJ)

The matter is taken up through video conferencing.

Heard Mr. G Jha and Mr. D Das, learned counsel appearing for the petitioner in PIL 30/2021 and Ms. S Sarma, learned counsel for the petitioner in PIL 29/2021. Also heard Mr. RKD Choudhury, learned Assistant Solicitor General of India, Mr. R Dhar, learned Senior Government Advocate, Assam and Ms. S Chaturvedi, learned counsel for National Commission for Protection of Child Rights (NCPCR) for the respondents.

Both these public interest litigations are being taken up together since in both these petitions, the issue which has been raised is regarding internally

displaced person (IDP) who has been forced to flee from the State of West Bengal to Assam pursuant to the alleged violence post West Bengal Assembly Election.

In PIL 29/2021, we have asked for reply from NCPCR. An affidavit has been filed stating therein as to the conditions of the children in the makeshift camps in Assam. Some larger issues have been made in PIL 30/2021 such as the status of the IDP and the responsibility of the State Government and Union of India, in these matters.

Let a detailed reply be filed by the State of Assam as well as Union of India who are being represented by Mr. R Dhar and Mr. RKD Choudhury, respectively.

Mr. R Dhar, learned Senior Government Advocate, Assam submits that State of West Bengal is a necessary party and has to be impleaded.

Learned counsel for the petitioner in both the petitions do not agree with the aforesaid submission of Mr. R Dhar.

This aspect will be considered on the next date of listing.

Meanwhile, the State of Assam would be at liberty to file its objections as to the maintainability of the petitions itself, inasmuch as, if State of West Bengal is a necessary party and in case it is a dispute between the State of Assam and State of West Bengal, then this Court may not have jurisdiction to decide the matter, as the matter would then be for exclusive jurisdiction of the Apex Court, under Article 131 of the Constitution of India. Such is the submission of the learned counsel for the State of Assam, Mr. R Dhar. We shall examine this aspect on the next date.

Let a detailed reply come within three weeks.

List on **14.07.2021**.

Let a detailed reply shall also come from the District Administration of Kokrajhar district through Mr. R Dhar, learned Senior Government Advocate, Assam.

JUDGE

CHIEF JUSTICE

Comparing Assistant