

GAHC010027472016



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

Case No. : PIL/71/2016

KHAGESWAR CHUTIA and ANR
PRESIDENT OF SINGIA GAON PANCHAYAT, S/O LT. CHALAKA CHUTIA, R/O
VILL. NO.2 SINGIA, P.O. BATAMARI, P.S. DHAKUAKHANA, PIN-787053,
DIST- LAKHIMPUR, ASSAM

2: BINA TAO
PRESIDENT OF HARHI GAON PANCHAYAT
D/O LT. INDRA TAO
R/O VILL. NO.2 THEKARAGURI
P.O. GOBINDAPUR
P.S. DHAKUAKHANA
PIN-787053
DIST- LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE CHIEF SECY., GOVT. OF ASSAM, DISPUR, GHY-6, ASSAM

2:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
PANCHAYAT AND R. D. DEPTT.
DISPUR
GHY-6
ASSAM

3:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
HOME and POLITICAL DEPTT.
DISPUR
GHY-6
ASSAM

4:DY. COMMISSIONER
LAKHIMPUR

DIST- LAKHIMPUR
ASSAM

5:DY. COMMISSIONER
DHEMAJI
DIST- DHEMAJI
ASSAM

6:SUB DIVISIONAL OFFICER C
DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

7:PRADAN BARUAH
MLA
113 DHEMAJI LAC
R/O FLAT NO.B-5
OLD MLA HOSTEL
DISPUR
GHY-6

8:SRI LALIT GOGOI
S/O GHANA GOGOI
RESIDENT OF GHARMARA GAON
DHENUKHANA
P.O. DHENUKHANA
P.S.- GHILAMARA
SUB-DIVISION DHAKUAKHANA
DISTRICT - LAKHIMPUR
ASSAM.

9:SRI KUSHAL KONCH
S/O SHRI NARAYAN KONCH
RESIDENT OF ROHA
P.O.- NEMUTENGANI
P.S.- DHAKUAKHANA
SUB-DIVISION- DHAKUAKHANA
DISTRICT - LAKHIMPUR
ASSAM.

10:SRI DIPTI CHUTIA
S/O GAGAN CHUTIA
RESIDENT OF GANDHIA
N.C. NO.1
P.O.- GANDHIA TINIALI
P.S.- GHILAMORA
SUB-DIVISION-DHAKUAKHANA
DISTRICT - LAKHIMPUR ASSAM.

11:SRI BRAJEN SAIKIA
S/O KSHITESWAR SAIKIA
RESIDENT OF KATHALGURI
NEMUTENGANI
NA-GAON
P.S. DHAKUAKHANA
SUB-DIVISION-DHAKUAKHANA
DISTRICT - LAKHIMPUR
ASSAM

For the Petitioners : Mr. M.P. Sarma, Advocate.
For the Respondents : Mr. S. Dutta, Standing Counsel, Panchayat and Rural
Development Department.
Ms. M. Bhattacharjee, Additional Senior Government
Advocate, Assam for respondent Nos.3 to 6.
Mr. J.I. Borbhuiya and Mr. S.K. Saikia, Advocates for
respondent Nos.8 to 11.

- B E F O R E -

**HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA**

17.05.2023

The petitioners herein have filed the instant PIL petition questioning the impugned action/decision of the State in transferring 5 Gaon Panchayats including 'Hingia' and 'Harhi' Gaon Panchayat from the administrative control of Lakhimpur District to Dhemaji District.

In order to fortify their challenge, the petitioners have placed on record, copy of the communication dated 13.07.2015, whereby a meeting was convened in the office of the Deputy Commissioner, Lakhimpur to consider the transfer of the administrative control of 4 numbers of Gaon Panchayats and 6 numbers of

villages of Uttar Dhakuakhana Gaon Panchayat to Dhemaji District.

The present PIL petition came to be filed in the year 2016.

Further proceedings pertaining to the proposed transfer of administrative control of Gaon Panchayats, namely, (i) Gandhia, (ii) Dhenukhana Batomari, (iii) Hingia, (iv) Harhi and also six villages of the Uttar Dhakuakhana Gaon Panchayat viz. (a) Chaiguri, (b) Bortangani, (c) Kukurajujuah, (d) Ghatopara, (e) Itakhuli and (f) Birajorachuk was stayed by this Court by order dated 16.10.2016.

Manifestly thus, no final decision has been taken on this aspect till date.

The petitioners' counsel drew the Court's attention to the provisions contained in Section 5(2) of the Assam Panchayat Act, 1994 and urged that any decision to transfer or change the boundaries of a Panchayat is required to be taken after consultation with the Gaon Panchayat concerned. He urges that as no consultation has been made before proposing the change in boundaries/transfer of administrative control, the impugned action is bad in the eyes of law.

Learned Government Counsel, Mr. S. Dutta submits that as a period of more than 8(eight) years has lapsed from the date the exercise was initiated, it would be apposite if the matter is remanded to the concerned authorities to take a fresh objective decision regarding change of boundaries/administrative control of the Gaon Panchayats concerned keeping in view the facts and circumstances as on date after due consultation with all concerned parties in accordance with the provisions of Assam Panchayat Act, 1994.

Accordingly, while striking down the impugned proposal, the instant PIL petition is disposed of requiring the competent authorities to undertake a fresh exercise for changing the administrative control of the Gaon Panchayats

concerned (if so desired) after due adherence to the requirements of Section 5 of the Assam Panchayat Act, 1994.

Needless to say that all concerned parties shall be consulted before such a decision is taken.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant